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# Simultaneous Catches and Infield Flies: Legal Writing Techniques in Sportswriting

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## Simultaneous Catches and Infield Flies: Legal Writing Techniques in Sportswriting

By John D. Schunk

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Is legal writing unique? To some extent, law schools implicitly convey the idea that it is by requiring entering law students to take at least one legal writing course. Becoming an excellent legal writer requires the mastery of skills essential to making and presenting well-reasoned arguments. While these skills are not unique to lawyers, law school and the practice of law probably emphasize these skills more than most other endeavors.

For an incoming law student, the transition to becoming an excellent writer will be easier if the student recognizes that law school is merely asking the student to transfer reasoning skills demonstrated in other forms of nonlegal writing and master those skills in a legal context. Almost any form of writing that goes beyond merely describing something contains techniques law students can use to become good legal writers. This article uses sportswriting to illustrate this point.

Last fall, within less than two weeks, two nationally televised sporting events involved highly controversial calls made by officials late in the games. The first happened on the last play of the Monday Night Football game between the Seattle Seahawks and the Green Bay Packers, and the second happened in the eighth inning of a one-game baseball playoff between the Saint Louis Cardinals and the Atlanta Braves.

In both instances, the sportswriting that appeared after each ball game often went beyond describing the game and tried to convey the idea that the controversial call in each game was wrong. In short, the sportswriting about these events became a form of advocacy writing. The techniques

used by various sportswriters to achieve this goal varied, but these techniques should look familiar to experienced legal writers. For novice legal writers, the sportswriting about these games should reassure them that the reasoning and techniques often associated with legal writing are not unique.

### The Controversial Calls

*September 24, 2012—The Simultaneous Catch*

With eight seconds remaining, the Seattle Seahawks trailed the Green Bay Packers, 12-7. Seattle had the ball on Green Bay's 24-yard line but was facing fourth down. A successful field goal would not help Seattle. On the fourth down play, Seattle's quarterback dropped back to pass and threw the football toward the left side of the end zone where there were five Green Bay defenders and two Seattle receivers. As the football came down in the end zone, a Green Bay defender leapt up in the air and appeared to grab the football. As he came down, a Seattle receiver was able to place his hands around the ball as well. A literal dog pile of players ensued, and the officials had to determine who caught the ball, if anyone. The officials eventually determined both the Seattle and the Green Bay players possessed the football. As a simultaneous catch, possession was awarded to the offensive team, here Seattle. This call resulted in a Seattle touchdown and Seattle won the game 14-12, as time expired.

As a scoring play in the National Football League (NFL), the play was subject to review by an NFL television replay official. The replay official found reviewing the television replays to be inconclusive and let the call stand.

The following day, the NFL issued a statement: "The NFL Officiating Department reviewed the video today and supports the decision not to overturn the on-field ruling following the instant replay review."

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*October 5, 2012—The Infield Fly*

During the 2012 baseball season, Major League Baseball (MLB) expanded the number of teams qualifying for its playoffs from eight to ten. In doing so, it introduced a one-game playoff between the two wildcard teams in each league—the teams that did not win their respective divisions.

On October 5, the Atlanta Braves played the Saint Louis Cardinals in this new one-game playoff with the winner moving on to play a best-of-five game series and the loser going home for the off-season.

The Braves trailed the Cardinals 6-3 going into the bottom of the eighth inning. With one out, the Braves had runners on first and second base. The next Braves hitter hit a fly ball to medium left field. The Cardinals' shortstop was moving backward from his normal position to the outfield to try to catch the ball, and their left fielder was coming in at the same time. At the last second, both Cardinal fielders moved away from the ball, and the ball dropped to the ground.

The Braves thought they had the bases loaded with one out, but the umpire positioned on the left field foul line in the outfield called the batter out by virtue of the Infield Fly Rule. As a result, the Braves had runners on second and third base with two outs. The next Braves batter walked, and the following Braves batter struck out. Ultimately, the Braves scored no runs that inning and lost the game 6-3. Advanced statisticians calculated that this Infield Fly Rule call by the left field umpire reduced the probability of the Braves winning the game from 22 percent to 9 percent.

Pursuant to MLB rules, the Braves formally protested the umpire's call. The Braves' protest was denied shortly after the game because MLB does not reverse an umpire's judgment call.

*Similarities*

Initially, both of these games had many similarities. Both were nationally televised to relatively large audiences. About 16 million viewers watched Green Bay play Seattle in football, and about 4 million viewers watched the Atlanta v. St. Louis baseball game. As a result, many people were

familiar with what had happened. In both games, the officials who made the controversial calls would not ordinarily have officiated a regular season game. For the football game, replacement officials were used due to the ongoing labor negotiations between the NFL and the union for its game officials. For playoff baseball games, Major League Baseball adds two umpires and places them along the outfield foul lines. Both calls were questionable, but were ultimately upheld.

**The Sportswriting**

The news articles following each game paid particular attention to these controversial calls. Much of the sportswriting sought to persuade the reader that the calls were wrong. As such, this sports reporting was advocacy writing.

How did these articles typically try to do this? Some of the techniques should look familiar to law students.

*Headlines*

Legal writers use point headings in advocacy documents. Good point headings try to give the reader easy access to the writer's basic argument. In many ways, the point headings lawyers write often are longer versions of newspaper headlines. Check out these headlines:

**Absurd Ending Fuels Disgust with Replacement Refs**

(September 25, 2012 – *New York Times*)<sup>1</sup>

**Infield fly drama mars Cardinals' wildcard win, a black eye for MLB**

(October 5, 2012 – *SI.com*)<sup>2</sup>

Like well-written point headings, these headlines convey the major idea expressed in the news article that follows. Here, both

<sup>1</sup> Greg Bishop, *Absurd Ending Fuels Disgust with Replacement Refs*, N.Y. TIMES, Sept. 25, 2012, <http://www.nytimes.com/2012/09/26/sports/football/absurd-ending-fuels-disgust-with-replacement-refs.html>.

<sup>2</sup> Cliff Corcoran, *Infield fly drama mars Cardinals' wild-card win, a black eye for MLB*, SI.COM (Oct. 5, 2012, 10:43 PM), [http://sportsillustrated.cnn.com/2012/writers/cliff\\_corcoran/10/05/braves-cardinals-nl-wild-card-infield-fly-protest/index.html](http://sportsillustrated.cnn.com/2012/writers/cliff_corcoran/10/05/braves-cardinals-nl-wild-card-infield-fly-protest/index.html) (last visited Dec. 13, 2012).

“Much of the sportswriting sought to persuade the reader that the calls were wrong. As such, this sports reporting was advocacy writing.”

“Social proof asks you to reach a conclusion because other people, often those presumed to have special knowledge, have done so.”

headlines suggest to the reader that something might be wrong with the result of the game.

#### *Deductive and Inductive Reasoning*

Both of these articles also illustrate how writers can choose the form of reasoning that they think will best persuade the reader. Good legal writing tends to use both deductive and inductive reasoning in an attempt to persuade its audience.

The SI.com article about the baseball game followed a more traditional legal presentation. After summarizing the relevant facts about the game, the author quoted the Infield Fly Rule and then explained why parts of the rule were not satisfied.

*Rule*—The Infield Fly Rule specifically states that it is to be used on a fair fly ball “which can be caught by an infielder with ordinary effort.” . . . Second, the rule states that “when it seems apparent that a batted ball will be an Infield Fly, the umpire shall immediately declare Infield Fly for the benefit of the runners.”

*Rule Application*—Kozma’s [the shortstop] was not an ordinary effort . . . In this case, Holbrook [the umpire] didn’t signal for the infield fly rule until the ball was more than halfway through its descent, mere moments before Kozma flinched and the ball hit the outfield grass.

An ESPN article<sup>3</sup> took the SI.com analysis a step further by introducing inductive reasoning after using the traditional deductive approach. The ESPN article tried to persuade its readers through analogical reasoning. It sought to compare the disputed call to other infield fly calls over the past three seasons.

“To put Friday’s controversial call into context, in the past three seasons, there were six infield flies that were not caught in the majors, according to Baseball Info Solutions, the longest measured at 178 feet.

Friday’s infield fly was measured at 225 feet from home plate, according to Baseball Info Solutions.”

This type of inductive reasoning should seem familiar to legal writers. Placing your dispute in the context of other similar disputes and making comparisons is something lawyers do frequently.

In contrast with these traditional approaches to persuasion, the *New York Times* article, in describing the NFL simultaneous catch during the Seahawks-Packers game, took a different approach. It used and relied on a different strain of inductive reasoning described as “social proof.”<sup>4</sup> Frequently, when a person is in a situation where he is unsure of the correct way to behave or think, the person will often look to others for cues concerning the correct behavior. Social proof asks you to reach a conclusion because other people, often those presumed to have special knowledge, have done so. In this sportswriting example, the *New York Times* article did not support its headline with a summary of the relevant NFL rule or a discussion of the applicable rule;<sup>5</sup> instead, it asked the reader to conclude that the football game had an “absurd ending” based on what other people had said.

“This is comical to me,” Jon Gruden said on the ESPN broadcast.

He added: “That’s two of the worst calls at the end of a football game that I can remember.”

Jon Gruden is a former NFL head coach and current ESPN football analyst, and, as such, presumably, has expert knowledge. The *New York Times* article later returned to this form of reasoning by quoting Twitter® posts of current NFL players.

“Reggie Bush, the Miami running back, posted on Twitter that the ‘refs single-handedly blew this one.’ Drew Brees, the New Orleans quarterback, wrote that ‘this is NOT the league we’re supposed to represent.’”

<sup>4</sup> For a general discussion of the concept of social proof, see *Social Proof*, WIKIPEDIA: THE FREE ENCYCLOPEDIA, [http://en.wikipedia.org/wiki/Social\\_proof](http://en.wikipedia.org/wiki/Social_proof) (last visited Sept. 16, 2013).

<sup>3</sup> *Cards advance to NLDS after disputed call; Braves’ protest denied*, <http://scores.espn.go.com/mlb/recap?gameId=321005115> (last visited Dec. 13, 2012).

<sup>5</sup> See NFL Rule 8, sec. 1, art. 3, item 5, available at [http://static.nfl.com/static/content/public/image/rulebook/pdfs/11\\_2012\\_ForwardPass\\_BackPass\\_Fumble.pdf](http://static.nfl.com/static/content/public/image/rulebook/pdfs/11_2012_ForwardPass_BackPass_Fumble.pdf).

Legal writers regularly use this type of inductive reasoning. Appellate briefs often contain arguments to the effect that this court should rule in a particular way because other nonbinding court decisions have expressed similar views in their decisions.

The sportswriting about these two events should serve to remind or reassure novice legal writers that what they are being asked to do is not novel or unique to legal writing. Forms of legal reasoning are found outside traditional legal documents. The writing techniques that persuade others generally are not limited to lawyers and what they learn in law school. This realization should reassure those students who wrote persuasively prior to law school that they can do so in a legal context as well.

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## Another Perspective

Abrams, Douglas E., Sports in the Courts: How Sports References Strengthen Written Advocacy and Judicial Opinions (Part I) (May 28, 2010). Precedent, Vol. 4, No. 2, pp. 32-41, Spring 2010, <http://ssrn.com/abstract=1617433>.

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