

Chambers of the  
Honorable Jennifer A. Dorsey  
United States District Judge, District of Nevada  
333 Las Vegas Boulevard South, Rm 6006  
Las Vegas, Nevada 89101

April 11, 2017

Hon. Neil M. Gorsuch  
Chair, Appellate Rules Advisory Committee  
Supreme Court of the United States  
1 First Street NE  
Washington, D.C. 20543-0001

Re: Proposed Revision of FRAP 28

Dear Justice Gorsuch,

I write in support of Bryan Garner's proposal to amend Federal Rule of Appellate Procedure 28 to require a deep-issue-style statement of the questions presented for review.

I've long been an outspoken advocate of clear and efficient legal writing. I adopted Mr. Garner's deep-issue approach to issue statements in the late 1990s while an appellate attorney in a civil-litigation boutique. I found these fact- and issue-packed statements to be more than just an effective way to educate the court on the issues; they enhanced my own understanding of each argument, which led to trimmer briefs.

As a district judge, I've observed that few attorneys take the opportunity to frame their arguments using deep issues. But it would serve them well to do so. I find deep-issue statements so useful that I start my orders and opinions with one whenever practical.<sup>1</sup> When given the honor of sitting by designation with the Ninth Circuit, I find that the briefs with deep-issue questions presented are better organized and better reasoned—and that makes them just plain easier to read.

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<sup>1</sup> See, e.g., *Roberts v. Clark Cty. Sch. Dist.*, \_\_ F. Supp.3d \_\_, 2016 WL 5843046 (D. Nev. Oct. 4, 2016).

I also have the privilege of teaching legal writing as an adjunct professor at the University of Nevada at Las Vegas's Boyd School of Law. I teach the deep-issue technique to second- and third-year students because the conventional *whether* style is antithetical to the central message of my class: audiences prefer clear, direct, and grammatically correct prose. And I have watched it make a difference in their grasp of the legal issues and ability to organize their points.

In sum, requiring appellate-brief writers to present their questions for review in a deep-issue format will make those issues clearer, the briefs more readable, and (just maybe) justice more expeditious. And if the appellate bar gets into the deep-issue habit, chances are, this practice will trickle down into trial-court briefs, too. So I hope the Advisory Committee will seriously consider revising FRAP 28.

Sincerely,



Jennifer A. Dorsey

P.S. Congratulations.

cc: Hon. Michael A. Chagares  
Rebecca Womeldorf, Esq.