

Hello, this is Adrienne Brungess. I'm a Professor of Lawyering Skills at University of the Pacific, McGeorge School of Law. Today, I'll talk about a couple of techniques to increase the lyrical nature of an advocate's language. Specifically, I'll talk about use of alliteration and use of repetition.

Now the advocate doesn't have to get too rhyme-y, or as I call it, Seussical, when creating lyrical language in written or oral presentations, but some introduction of alliteration and repetition can have great persuasive impact on the listener.

Alliteration, as you know, is the occurrence of the same letter or sound at the beginning of adjacent or closely connected words. For example: While I nodded nearly napping suddenly there came a tapping - from *The Raven* by Edgar Allan Poe. Again, we are not necessarily trying to infuse a Poe style prose and alliteration into legal advocacy, but rather I'm suggesting that that concept and idea of using alliteration for persuasive impact can be layered into an advocate's argument.

Doing so will increase the attention level of the audience whether it is an oral presentation or a written court brief and it will also make the argument, or the story being told, more memorable to the audience. But how do we do this in a way that makes sense in the legal context, as opposed to fiction or poetry?

To demonstrate I'd like to give some examples of court opinions that have used alliteration effectively. And keep in mind that frequently, judges will include language in opinions that was presented by one side of the argument or the other - either in written or oral advocacy. The case *Walton v Johnson & Johnson Services Inc.* demonstrates effective use of alliteration in the legal context. In this case, in discussing claims of sexual harassment in the workplace, the 11th Circuit has noted that: While severe harassment can be traumatic, that harassment cannot be corrected without the cooperation of the victims. Note the repetition of the hard 'c' in that phrasing and how it makes the phrase more memorable and interesting without making it sound too Seussical.

Another example, from *Amerisource Corp. v United States*, Judge Young - from the District of Columbia Circuit, described the police power as: An axiomatic but amorphous aspect of sovereignty. Again, an example of use of alliteration in the legal context that makes the phrasing much more interesting and creative.

In another case, Judge Boggs of the 6th Circuit, in a dissent, noted: If they are serious about suppressing those perceived evils, they must believe that the Constitution allows Marx but not Moses, Oprah but not Obadiah, Emmerson but not Ephesians.

The other technique I'd like to talk about to add a lyrical component to an advocate's use of language is the use of repetition. Repetition of the same word or concept creates emphasis and emphasis has persuasive value. One example comes from the petitioner's brief in the *Obergefell v Hodges* introduction. The advocate in that brief

focused repeatedly on how the State of Ohio was acting in a manner that was harmful to its clients. The introduction states:

Petitioner's married seeking a cherished status that protects families throughout life, from cradle to grave. But Ohio refuses to respect the dignity and status conferred on petitioner's marriage by other states. From the start of the marriage to the birth of children, to the death of one spouse and beyond, Ohio erases the legal relationship of petitioner's family. Ohio treats these spouses as legal strangers to one another and recognizes only one member of each couple as a legal parent to the children. Ohio even cruelly refuses to recognize petitioner's marriages on death certificates when one spouse dies. Through its marriage recognition bans, Ohio strikes out at a class of individuals whose intimate personal relationships have been afforded a solemn and special status by other states.

Note that that brief paragraph stated that Ohio acted badly five different times. That layering of repetition of that concept will have great persuasive effect on the audience.

So to wrap up this topic, an advocate can attempt to integrate techniques such as use of alliteration and repetition in his or her oral or written advocacy to make the language a little more lyrical, a little bit more interesting, and therefore enhance its persuasive effect.

That concludes this In Practice on the topic of using lyrical language as a persuasive technique. This is Adrienne Brungess of the McGeorge School of Law in Sacramento. Thank you for listening.