

Going Short for High Returns: A Practitioner's Guide to Investing in Lawyer-to-Client Executive Summaries

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"I apologize for such a long letter — I didn't have time to write a short one."

— Mark Twain¹

Mark Twain's famous quip unmasks the reality that focused, succinct communication requires far more investment from the writer than the ordinary fare that we pen and read in our daily lives. We laugh at Twain's humor because, as readers and listeners, we instinctively value the quality and impact of focused, succinct communication. In this article, we explore ways in which lawyers can tap into that value in developing effective lawyer-to-client executive summaries.

I. Points to Ponder

A. *What Is a Lawyer-to-Client Executive Summary?*

For purposes of this article, an executive summary is a highly distilled lawyer-to-client written presentation of the key elements of a matter for the client's senior executives to consider. Lawyers

¹ *Mark Twain Quotations*, The Spiritual Life, <https://slife.org/mark-twain-quotations/>; *Mark Twain Quotes*, goodreads.com, <https://www.goodreads.com/quotes/tag/mark-twain?page=3>.

use it as a tool for walking executives through key developments or issues that require discussion or input.

This use of *executive summary* stands apart from a second use of that term to refer to a paragraph or slide that provides an overview or abstract of what comes in the remainder of a lengthy paper, report, or presentation.² This article is not about writing overviews or abstracts for longer presentations or papers. It instead examines how to distill a legal matter (such as a dispute, transaction, or project) into a focused, succinct, executive-level communication or presentation. Our usage of *executive summary* refers to the entirety of that communication or presentation, not just to the opening section or slide.

For our purposes, the form of a lawyer-to-client executive summary can be (1) a short document of a few pages using a paragraph format or (2) a presentation of a few slides. In the latter variety, an oral presentation typically accompanies the executive summary. In its finest form, the executive summary consists of a single page or slide, with backup or additional pages or slides that provide supporting analyses, details, and related visual aids on key elements about which the audience is most likely to want to dig deeper. Whether the executive summary is a single page/slide or a few pages/slides, the process and pointers covered in this article apply to the whole document or deck.

If *accuracy*, *brevity*, and *clarity* are the three hallmarks of all good writing, then the three defining demands of an effective executive summary are *distill*, *distill*, *distill*. An executive summary gets its potency from the writer's ability to extract the key points necessary to guide senior executives' understanding of the

² See, e.g., Harvard University John F. Kennedy School of Government, Communications Program, *How to Write an Executive Summary*, https://projects.iq.harvard.edu/files/hks-communications-program/files/how_to_write_an_exec_summ_to_use_4_18_18.pdf (using the term to describe a summary accompanying a longer policy report).

issue and then capture those essentials in a highly condensed written presentation.

B. Why Use an Executive Summary?

Two reasons suffice for using an executive summary. They are revealed in the term's descriptive name.

- **Summary.** First, the pace of an increasingly digital, 24/7 global economy and the competitive forces that impose efficiencies on most organizations demand concise communication. Most lawyers serve executive clients who, of necessity, must remain undistracted by the immaterial. The most sought-after lawyers become integrated members of their clients' teams and share with them a duty to be good stewards of their senior executives' time and focus. They fulfill this duty by distilling out the immaterial.
- **Executive.** Second, a presentation must be scaled to an executive level to frame the conversation in the strategic terms that are material to the organization. An effective executive summary, therefore, goes beyond culling the immaterial. In addition to delivering the message succinctly, the executive summary directs the conversation toward and frames the developments and issues in terms of the strategic priorities of the organization's senior executives. The most effective lawyers not only understand and can articulate the client's strategy in the matter at hand but also know the overarching vision and strategy of the client's organization. No one on the team is better situated to frame the strategic and legal significance of the developments and issues at hand.

C. What Is the Challenge of Crafting an Executive Summary?

Like Mark Twain, effective lawyers understand the importance of succinct writing. Those who are investing time in reading this article likely grasp the immensity of the challenge. That challenge is demanding even when the presenter and audience have similar training and experience, as when a civil engineer presents to a civil engineer. But for lawyer-to-client presentations, the need to summarize complex legal realities for nonlawyers amplifies the challenge. At a threshold level, malpractice carriers and curmudgeons may say that it is a fool's errand to try to unpack and succinctly present complex legal issues to nonlawyers. Yet effective lawyers do it every day in courthouses, legislative chambers, and negotiation rooms. At a deeper level, good practitioners ask, "What does it really mean to 'distill,' after all?" Unlike the legendary response to defining pornography, it does not suffice to say, "We know it when we see it."³ This article offers lawyers both a process and a set of practical pointers for distilling legal matters for presentations to the senior executives of client organizations.

II. Design Points: Drafting the Executive Summary

A. Begin with the End in Mind.

As with all other writing, in crafting an effective executive summary, you cannot communicate well until you are thinking well. Your executive summary will not be clear if your thoughts are not clear. At the outset, you must have crisply in mind what a win looks like.

³ See *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964) (Stewart, J., concurring) (using the phrase "I know it when I see it" in explaining that the motion picture involved in the case did not amount to "hard-core pornography").

- In this context, begin by asking yourself: “What are the three or four takeaways or key insights that I want the audience to grasp as a result of the presentation?”
- Next, create an analytical flow. It is not enough merely to *identify* the key takeaways. You must understand how they build on one another. Linking the takeaways in this sequence will form a coherent analytical flow for the conversation.
- Here is the test: If, after the meeting, the clients were asked on the elevator what the lawyer had said, what would you want them to say?

That “elevator speech” forms the North Star for outlining your executive summary. Occasionally, those takeaways form the outline itself. But in all cases, the takeaways emerge clearly from the finished product if you begin with them in mind.

B. Tie the Takeaways to Strategy.

The dispute, transaction, or project that you are handling for the client does not exist in a vacuum. It is grounded in the particular strategy, strengths, and priorities of a unique client with distinct needs and objectives. As you develop your outline in support of your key takeaways, look for a means of setting the strategic context for the presentation. Ideally, build the strategic context into your presentation near the outset or at least by the time you present the key issue.

Most successful clients are clear on their strategy, both for their organization and for the matter you are handling for them. The richest executive summaries succinctly tie, when relevant, to the client’s strategic intent. Though this linkage is not mandatory, it can be especially helpful to both your process and your client relationship. Clients tend to value the relationship more significantly if they can see that the lawyer “gets” their strategy and is looking out for their strategic interests.

C. Make a Recommendation.

Lawyers are paid to deliver good judgment and advice. The best attorney–client relationships call for the lawyer to deliver not just analysis, but a useful conclusion. If your outline merely offers both sides of an issue with no executable advice, pause. Press beyond analysis to synthesize the factors into a practical recommendation. Even if you are not confident enough in your particular relationship with the client to put a recommendation into the outline or onto the page, have it at the ready in your mind in case you are asked.

D. Create a Structure.

As you turn your key takeaways into an outline, create a sequence of headings and subheadings that forms a structure for the summary. Unless the client dictates a structure, it is best not to be wooden about this sequence of headings. Here is just one of many examples that you can design:

- **Context.** One of your key takeaways may come from a material factual development. Include that development in an early section on context.
- **Issue.** Lay out the issue at play. Often, a key takeaway from a factual development leads to an issue that the organization must now address.
- **Analysis.** Include in the summary only analyses necessary to support the key takeaways.
- **Conclusion.** Offer your legal conclusion on the issue. One or more key takeaways often emerge from your legal conclusion.
- **Recommendation.** Make a recommendation. Depending on the strength of your relationship and the facts, your recommendation may or may not constitute a key takeaway.

A good series of structural headings aids the client in processing what you are saying and in seeing where the conversation is headed. That clarity generally improves focus and engagement.

E. Calibrate to the Audience’s Level of Understanding.

As you begin to build your key takeaways into an initial outline, pause to reflect (or seek input) on the audience’s level of factual understanding. One of the benefits of long-standing attorney–client relationships is deep attorney awareness of the background, perspectives, and preferences of the client’s senior executives.

What assumptions can you make about the base level of factual understanding and recall that the executives will bring to the meeting? Unfamiliarity, of course, is the enemy of brevity. The executives’ lack of familiarity makes the preparation of an initial executive summary for newer clients more challenging. Rather than simply assuming an executive’s unfamiliarity, test this question, either with one or more of that executive’s direct reports or with other client contacts on the team.

It has been said that “lawyers don’t make the facts; they just deal with them.” In the same way, you don’t make the executives or their level of familiarity. Give yourself some slack on brevity if you are making an initial presentation introducing the executives to a matter. Later executive summaries will be more succinct.

F. Adjust for the Time Allowed for the Review.

If you know that you have only 30 or 60 minutes for the presentation, adjust the document accordingly. Make liberal use of backup slides to synchronize your presentation to the time allowed. Design your slide deck to be presented with ample time for questions and answers afterward. A good guideline: scale your material so that you can get through it in two-thirds of the allotted time, with one-third allocated for discussion as or after you go through the presentation.

G. Be Up Front About Your Purpose.

Once you have a basic outline for your slide deck or other form of executive summary, be up front about your purpose as you begin to turn that outline into a draft. Busy executives deserve to know at the outset the lawyer’s expectation for the meeting. Communicating your objective can often be accomplished with a single word or phrase in the title or a heading, e.g., “Update and Recommendation for Filing of Amicus Brief.” Your clients will more easily give laser focus to your message if you let them know at the outset where you are headed. So be clear about your objective.

- Are you requesting from the client a **decision** (additional settlement authority; approval to file; authorization for a counteroffer)?
- Or are you requesting from the client **strategic guidance** — additional input on client priorities or perspectives that are at play in your matter (e.g., trade-offs between two factors)?
- Or are you merely updating the client on material developments for client **awareness**?

With your purpose in mind, the executives can more readily follow where you are taking the conversation.

H. Anticipate Your Audience’s Questions.

As you finalize your first draft of the executive summary, test the material for foreseeable client questions. If you were in their seats with their drivers in mind (e.g., sales volumes, margins, head count, budget, SEC filings, board or investment community reactions), what would you want to know? What questions are they likely to ask? Is there an answer that they don’t want to hear to a legally significant question that they are unlikely to ask? If so, should that answer be woven into the presentation? What

questions must you be ready to address? Are some of the resulting additions to your draft well suited for the backup section?

I. Support Your Conclusions.

If dangling participles are the bane of effective sentences, dangling conclusions are the bane of effective executive summaries. Test your first complete draft to ensure that every conclusion or recommendation is well supported by what came before it.

J. Distill, Distill, Distill: This Is the Essence of the Art.

To distill the matter is the essence of the art of crafting executive summaries. How does one distill a matter? If you asked ten lawyers, most would stumble into eventually saying, “Give me a specific matter and I’ll show you.” But we must do better. Here are concrete process points to consider as you turn your outline into a deck or document:

- **Distill first; draft second.** Health and diet gurus say that if you are fighting the weight-control battle in your kitchen, you have lost the battle before it begins — for that battle is won in the grocery aisle, not in the kitchen. In that same way, if you have written the text for your presentation before distilling the material, you have lost the battle. Effective summaries very rarely emerge from verbose first drafts. To produce an effective executive summary, do the difficult work of distilling before and as you begin the first draft. The sequence matters. Get it right.
- **Begin not with what can be taken out, but with what *must go in*.** Start with just the essence. What are the crucial variables or questions on which the risk, opportunity, or choice turns?
- **Ask yourself: so what?** Relentlessly ask and reask yourself the “so what” question — for every page, for

every sentence, for every bullet point, for every word. What would happen if you omitted it? Does it matter whether the vendor is based in Mississippi or Michigan? If it does not matter, delete it. What *really* drives the question at hand? If the factor reflected by that word or bullet point does not weigh materially on the answer, delete it. Does that bit of data materially improve the document? Or is it really just static noise around the periphery? Be bold. Try cutting it. If after a fresh read you still think it is too important to delete, consider whether it might better serve as appropriate backup material.

- **Consider what can be relegated to backup material.** Including at the back of your document pages or slides that contain backup material is a great way to show your insight on the questions that executives may want to explore more deeply. And moving detailed analyses, charts, and reference material to the backup section is also an effective way to distill your executive summary down to just the core flow of the conversation. Especially in a one-slide executive summary, you can clue the reader to flip to a specific backup slide for more detail on a given bullet with a tiny superscript reference like this one: ^{Slide 7}.
- **Consider what should be left to voiceover.** You are drafting for an intended audience, but it is wise to pause and consider unintended audiences (e.g., in the case of inadvertent disclosure of your document). Are there takeaways or points in your material that are so legally or competitively sensitive that they are better left to the voiceover portion of your presentation? Does the draft contain material that the client may not want flying

around digitally by email? In those instances, an oblique placeholder can be advisable, e.g., “Discussion of legal sensitivities.”

- **Keep takeaways distinct.** The best and most significant takeaways or insights stand on their own. They tie to other takeaways or insights, of course, but most often are distinct from them. Take care not to merge multiple takeaways into a single bullet or sentence. Keeping your key takeaways distinct aids and expedites client buy-in and feedback. If takeaways are combined, the executives may take issue with just half of your merged pair of points, which typically impedes clarity and alignment. It is generally best to focus on one point for each key takeaway or insight.

K. Be Mindful of Privilege — and Potential Waiver.

As you finalize your first draft and turn to colleagues for input, bear in mind the importance of maintaining privilege over your draft — and of the risk of waiver by disclosing it to others.

L. Build in Time for Reflection.

Plan your work so that you can put down the draft and come back to it after a good night’s sleep. The best and most polished presentations can have a preparation-to-presentation time ratio of 10- or 20-to-1 (5–10 hours of work to prepare for a 30-minute presentation). Building in a time buffer between your near-final draft and the end product will aid the editing and review process.

M. Get a “Fresh Eyes” Review.

If you can do so without waiving privilege, seek out a professional colleague who can bring a fresh pair of eyes to the draft. Test the effectiveness of your executive summary by seeing whether the colleague can explain it to you after having read it.

You may discover that what you thought was crystal clear was not at all apparent to your reader. Input from an experienced colleague can be invaluable.

N. Practice, Practice, Practice.

While practice in presenting your summary naturally helps with the oral delivery of your presentation, practicing aloud can also help you identify edits for the written work product.

After you have honed your presentation, deliver it to a trusted colleague (under privilege). Listen to the feedback and, if time permits, try again. Your deck/document is definitely not ready if you have not been through a full presentation of it without finding a necessary edit.

In the end, creating an executive summary is art, not science. But if you have followed the process and pointers described above, you will almost certainly have a high-quality document for delivery to the client. If you transmit the summary ahead of time, ensure that the executives understand the role of voiceover for supplementing the contents.

III. Presentation Points: Presenting the Executive Summary

Because executive summaries are so often presented in person and with discussion, the message and the messenger must work in tandem. More than half the game is won with an effective document (prepared as described above), but *how* you present that document is an inseparable part of a winning executive summary. And how you present it will often make a lasting impression on the client. Here are a few tips for effectively presenting your executive summary.

A. Remember: It's a Conversation, Not a Speech.

To present well, you have to master the issue, not memorize the deck. You almost certainly know more about the issue than anyone else in the room. Relax. You are well positioned to guide all but the most difficult clients through the conversation.

B. Read Your Audience, Not Your Document.

Pay attention to your audience. Watch the executives' body language. Pause when they appear to have a question, are conferring among themselves, or appear to be signaling that they are not grasping your points. Follow their lead. You can get back to your summary after you address their concerns and questions. It is their matter, after all, not yours.

C. Understand the Question Before You Respond.

Get used to unanticipated questions, and make sure you understand them before you answer. The most common derailer that a presenter encounters is not comprehending the question. Answering an ambiguous question without seeking clarification might give the executives an answer that they may not realize goes to a different question. If the question is not immediately clear to you, at a minimum, repeat the question as you heard it — and reserve the point as a follow-up action item if the question remains unclear.

D. Be Confident, Not Defensive.

While you likely have more depth on the issue than anyone else in the room, the conversation and process will not profit from your reacting defensively to new inputs. In most cases, new inputs, priorities, and guidance merit thoughtful analysis and response. Seek out and ponder the opportunity in them. New information can be helpful in solving problems. If appropriate, capture the new input as a follow-up item to be addressed after the meeting. If not, you

will have to follow the client’s lead and get back to the summary in due course.

E. Keep an Eye on the Clock.

If the presentation is running long, test for flexibility in the executives’ schedule to extend the meeting. If they cannot extend, you are the person in the room best suited to compress the rest of the material to the time remaining. With any fixed deadlines in mind, you will want to focus on your “must-haves” from the presentation — the minimum decision or guidance that you need from that meeting. The situation may require your proposing a second session to complete the remaining portion of the review.

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Time invested in crafting effective executive summaries delivers value to the client and pays relational dividends to the lawyer. Clients appreciate focused, succinct communication and the lawyer who delivers it. Smart clients will realize the benefits that you bring to the team — and will be more likely to turn to you with other matters because they have confidence in your ability to effectively summarize and present. Though the standards for creating effective executive summaries are demanding and the process is challenging, “going short” yields high returns for those who invest.