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The Rule of Three

Patrick Barry

University of Michigan Law School, barrypj@umich.edu

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Recommended Citation

Barry, Patrick. "The Rule of Three." *Legal Comm. & Rhetoric* 15 (2018): 247-61.

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ESSAY

The Rule of Three

Patrick Barry*

*I am simmering, simmering, simmering; Emerson brought me to a boil.*¹

—Walt Whitman

*Our top priority was, is and always will be education, education, education.*²

—British Prime Minister Tony Blair

*You do affirm that all the testimony you are about to give in the case now before the court will be the truth, the whole truth, and nothing but the truth.*³

— Oath administered in U.S. District Court

Judges use the Rule of Three. Practitioners use the Rule of Three. And so do all manner of legal academics. Yet although many people seem to have an intuitive feel for how useful this rhetorical move is, no extended explanation of its mechanics and variety of forms exists. This essay offers that explanation. It begins with an introduction to the more straightforward form of the rule of three, which simply involves arranging information not in twos or fours or any other set of numbers—but rather in the trusty, melodic structure of threes. It then moves on to a closer look at some of the Rule of Three’s more-subtle forms. And finally, it concludes

* Clinical Assistant Professor, University of Michigan Law School. I would like to thank Ramzi Abboud, Dave Babbe, Dan Dalton, Shai Dothan, Samir Hanna, Eva Foti Pagan, Tim Pinto, Ben Preyss, Helen Ryan, and Vivek Sankaran for helpful comments. I would also like to thank a wonderful set of research assistants for their editorial support: Julie Aust, James Coatsworth, Hannah Hoffman, and Joel Richert.

¹ In conversation with fellow writer John Townsend Trowbridge; see John Townsend Trowbridge, *Reminiscences of Walt Whitman*, THE ATLANTIC MONTHLY (Feb. 1902), available at <https://www.theatlantic.com/past/docs/unbound/poetry/whitman/walt.htm>.

² Tony Blair, Prime Minister of the United Kingdom, The Prime Minister Launching Labour’s Education Manifesto, Address Delivered at The University of Southampton (May 23, 2001), in THE GUARDIAN, May 23, 2001 at 11:45 AM, available at <https://www.theguardian.com/politics/2001/may/23/labour.tonyblair>.

³ Brendan Koerner, *Where Did We Get Our Oath?*, SLATE (Apr. 30, 2004, 5:52 PM), available at http://www.slate.com/articles/news_and_politics/explainer/2004/04/where_did_we_get_our_oath.htm; see also *United States v. Ward*, 989 F.2d 1015, 1019 (9th Cir. 1992).

with some playful questions and examples, each designed to make it easier to recognize and use the Rule of Three in memos, briefs, and many other kinds of legal writing.

I. Attractive Rhythm

The starting point for the Rule of Three is its attractive rhythm,⁴ something the Supreme Court knows well. At the start of each session, the marshal of the Court announces “[t]he Honorable, the Chief Justice and the Associate Justices of the Supreme Court of the United States. Oyez! Oyez! Oyez!”⁵ The marshal doesn’t say “Oyez!”. The marshal doesn’t say “Oyez! Oyez!”. The marshal says “Oyez! Oyez! Oyez!”. That third “Oyez” completes the sound of a comforting syntactic set.

This sound structure rules the world of real estate as well. The mantra of the market is not “Location.” Nor is it “Location. Location.” It’s “Location. Location. Location.”⁶ Just as the mantra of the football team at the University of Michigan is not “The team” or even “The team. The team.” It’s “The team. The team. The team.”⁷

Examples from other realms abound, emphasizing a range of ideas, from funny to disconcerting:

Food:

We obsess over every ingredient.

We obsess over every ingredient.

We obsess over every ingredient.

— *Chipotle*, Billboard Campaign in Chicago⁸

⁴ James Tinford includes making use of this rhythm as one of his “20 Basic Principles of Effective Trial Advocacy. “Use the rule of threes. If it’s important, do it three times. The baby didn’t just die, he suffocated, turned blue, and died.” <http://www.law.indiana.edu/instruction/tanford/b584/20BasicPrinciples.pdf> (last visited Apr. 9, 2018). Roy Peter Clark endorses something similar in *Writing Tools: 55 Essential Strategies for Every Writer*, although he frames his endorsement in terms of parallel structure. “A pure parallel structure would be ‘Boom, boom, boom.’ Parallelism with a twist gives us ‘Boom, boom, bang.” ROY PETER CLARK, *WRITING TOOLS: 55 ESSENTIAL STRATEGIES FOR EVERY WRITER* 43 (2008). There are also books on public speaking that mention the rule of three, such as *Talk Like TED* by Carmine Gallo. “The rule of three simply means that people can remember three pieces of information very well; add more items and retention falls off considerably. It is one of the most powerful concepts in writing and communication.” CARMINE GALLO, *TALK LIKE TED: THE 9 PUBLIC-SPEAKING SECRETS OF THE WORLD’S TOP MINDS* 191 (2014).

⁵ SUPREME COURT OF THE UNITED STATES, *The Court and Its Procedures*, <https://www.supremecourt.gov/about/procedures.aspx> (last visited Apr. 9, 2018).

⁶ For the disputed origins of this mantra, see William Safire, *Location, Location, Location*, *N.Y. TIMES MAG.*, June 26, 2009, available at <http://www.nytimes.com/2009/06/28/magazine/28FOB-onlanguage-t.html>.

⁷ BO SCHEMBECHLER AND JOHN U. BACON, *BO’S LASTING LESSONS: THE LEGENDARY COACH TEACHES THE TIMELESS FUNDAMENTALS OF LEADERSHIP* 78 (2007).

⁸ *Chipotle*, *CULTIVATOR*, <http://www.cultivatorads.com> (as of June 5, 2017) (copy on file with author).

Music:

Q. "Pardon me, sir, how do I get to Carnegie Hall?"

A. "Practice. Practice. Practice."

— Popular Joke⁹

The Brady Bunch:

"All I hear all day long at school is how great Marcia is at this and how wonderful Marcia is at that. Marcia! Marcia! Marcia!"

—Jan Brady (whining)¹⁰

Divorce:

"I divorce you. I divorce you. I divorce you."

—Ancient Islamic practice once used in India whereby men could divorce their wives just by saying "I divorce you" three times.¹¹ (Women were not given the same power.)

Poets, novelists, and other professional writers are particularly keen followers of this apparent "Rule of Three." In 1835, for example, Lord Alfred Tennyson wrote a poem to try to capture the pain and loneliness he felt after the death of his good friend Arthur Hallam, a fellow poet and university student at Cambridge who died of an unexpected cerebral hemorrhage when only twenty-two years old.¹² Tennyson called the poem "Break, Break, Break." He also included those words at the start of the first and the last stanza.¹³

Over a 150 years later, the Japanese writer Haruki Murakami published the novel *Dansu, Dansu, Dansu*, which has been translated as *Dance, Dance, Dance*.¹⁴ And, for younger readers, there is Pat Mora's

9 Michael Pollak, *The Origins of that Famous Carnegie Hall Joke*, N.Y. TIMES, Nov. 27, 2009, available at <http://www.nytimes.com/2009/11/29/nyregion/29fyi.html>.

10 *The Brady Bunch: Her Sister's Shadow* (ABC broadcast Nov. 19, 1971), available at <https://www.youtube.com/watch?v=yZHveWEvqM>.

11 Jeffrey Gettleman and Suhasini Raj, *India's Supreme Court Strikes Down 'Instant Divorce' for Muslims*, N.Y. TIMES, Aug. 22, 2017, available at <https://www.nytimes.com/2017/08/22/world/asia/india-muslim-divorce-triple-talaq.html>.

12 LORD ALFRED TENNYSON, *THE WORKS OF LORD ALFRED TENNYSON* 218 (1998). Hallam was also the subject of Tennyson's longer and more famous poem "In Memoriam A.H.H."

13 *Id.* (Break, break, break,
On thy cold gray stones, O Sea!
And I would that my tongue could utter
The thoughts that arise in me . . . /
Break, break, break
At the foot of thy crags, O Sea!
But the tender grace of a day that is dead
Will never come back to me.)

14 HARUKI MURAKAMI, *DANCE, DANCE, DANCE* (1994).

Spanish version of *The Crow and the Pitcher*, a tale of water and ingenuity taken from one of Aesop's fables. Mora calls her version *Agua, Agua, Agua*.¹⁵ The Rule of Three, it seems, speaks multiple languages.¹⁶

Another example comes from John Cheever's 1954 short story "The Five-Forty-Eight." A master of dialogue, of conveying the meter and mood of ordinary speech, Cheever uses the Rule of Three twice in a very compact space.

"Oh, no," she said. "No, no, no." She put her white face so close to his ear that he could feel her warm breath on his cheek. "Don't do that," she whispered. "Don't try and escape me. I have a pistol and I'll have to kill you and I don't want to. All I want to do is to talk with you. Don't move or I'll kill you. Don't, don't, don't!"¹⁷

Emma Cline achieves a similar effect in "Northeast Regional," a short story she published in 2017. This time, however, the Rule of Three is used only once, and the words are imagined to be inside somebody else's head.

She had tried her best to be a good sport. That was the phrase he was sure was circling down at the bottom of her thoughts['][] stern ticker tape: be a good sport be a good sport be a good sport.¹⁸

Both Cheever's story and Cline's story appeared in *The New Yorker*, a magazine whose ad campaign for its digital content shows that the possibilities of the Rule of Three extend beyond the most strict forms of repetition: "Every story. Every issue. Every device."¹⁹

The ad doesn't stop after one item ("Every story.") or after two ("Every story. Every issue."). It also doesn't stretch to include four items ("Every story. Every issue. Every device. Every day."). That might be overkill. Instead, it settles on three items: "Every story. Every issue. Every device." The Rule of Three is the advertising sweet spot.

All of the following organizations agree:

Target (Gift Card):

No fees. No expiration. No kidding.²⁰

15 PAT MORA, *AGUA, AGUA, AGUA* (1993).

16 The "I divorce you. I divorce you. I divorce you." example is evidence of this as well. See Gettleman & Raj, *supra* note 11.

17 John Cheever, *The Five-Forty-Eight*, *NEW YORKER*, Apr. 10, 1954, available at <http://www.newyorker.com/magazine/1954/04/10/the-five-forty-eight>.

18 Emma Cline, *Northeast Regional*, *NEW YORKER*, Apr. 10, 2017, available at <http://www.newyorker.com/magazine/2017/04/10/northeast-regional>.

19 See slogan at <https://subscribe.newyorker.com/subscribe/newyorker/90665> (last visited May 19, 2018).

20 Target, *Frequently Asked Questions*, <http://www.target.com/c/frequently-asked-questions/-/N-4sro0> (last visited Apr. 11, 2018).

Stanford Business School:

Change Lives. Change Organizations. Change the world.²¹

Buffalo Wild Wings:

Wings. Beer. Sports.²²

Kahn Academy:

For free. For everyone. Forever.²³

Southwest Airlines:

New Year. New Adventure. New Sale.²⁴

U.S. Marine Corps:

The Few. The Proud. The Marines.²⁵

As these initial examples show, sometimes the structure of the Rule of Three is straightforward. It is just the same word (or very similar words) repeated three times. Other times, however, the structure is more subtle, taking on a rhythm that can be described as either “short, short, kind of long” or “same, same, kind of different.” The next two sections clarify that difference, after which the essay concludes by (1) connecting how phrase-making can lead to sentence-making (and end paragraph-making) and (2) the helpful reminder, crucial to using the Rule of Three effectively, that one way to view language is as “visible speech.”

II. Short, Short, Kind of Long

The example from the U.S. Marine Corps (“The Few. The Proud. The Marines.”) is a good place to start. If you focus on the number of syllables in each item in the list—“The Few” (2 syllables), “The Proud” (2 syllables), “The Marines” (3 syllables)—you’ll see the shift follows a structure I teach to my students as “short, short, kind of long.” A clearer example comes from the most famous line in the Declaration of Independence.

life, liberty, and the pursuit of happiness
(short) (short) (kind of long)

²¹ STANFORD GRADUATE SCHOOL OF BUSINESS, <https://www.gsb.stanford.edu/> (last visited Apr. 11, 2018).

²² Buffalo Wild Wings, *2015 Brand Identity: Style Guide* 12-14, 21 (2015), https://www.buffalowildwings.com/globalassets/pdfs/press-kit/2014-1994_bww_style-guide.pdf.

²³ KAHN ACADEMY, <https://www.khanacademy.org> (last visited Apr. 11, 2018).

²⁴ *Southwest Airlines*, TWITTER, <https://twitter.com/SouthwestAir> (as of Jun. 6, 2017) (copy on file with author).

²⁵ Jeff Schogol, *Marines are once again ‘The Few, The Proud,’* MARINE TIMES, Mar. 30, 2017, *available at* <https://www.marine.corpstimes.com/articles/iconic-marine-recruiting-slogan-returns>.

The words “life” and “liberty” are both under three syllables in length. They’re short. By comparison, the phrase “the pursuit of happiness” is kind of long. So it goes at the end of the list. As creators of everything from movie taglines to children’s stories to world-changing political documents understand, the last slot in the Rule of Three is often reserved for lengthier, more complex material.

The first draft of the Declaration, for example, received a lot of edits from other founding fathers.²⁶ Some of these edits Jefferson disagreed with so strongly that he called them “mutilations” and “depredations.”²⁷ But none of the edits ever suggested he change “life, liberty, and the pursuit of happiness” to “life, the pursuit of happiness, and liberty” or to “the pursuit of happiness, liberty, and life.” None tinkered with the structure of the Rule of Three.

III. Same, Same, Kind of Different

A more general way to think about this structure is “same, same, kind of different.” The first two items in the list have something in common. Maybe they start with the same letter. Maybe they contain the same word. Maybe they each have a common rhythm, syntax, or shape. But then you get to the third item, and the pattern breaks.

A good example is “life, liberty, and estate.” The phrase—which some have linked to Jefferson’s own “life, liberty, and the pursuit of happiness”²⁸—comes from John Locke’s *Second Treatise of Government* published in 1689. Notice that Locke’s phrase doesn’t fit the structure of “short, short, kind of long.” The word “life” is one syllable; the word “liberty” is three syllables; the word “estate” is two. Which means one of the slots reserved for a “short” item is actually longer than the slot for the “kind of long” item.

But if you focus on the alliteration in the first two items—“life” and “liberty”—you’ll see that it does fit the structure of “same, same, kind of different.” The first word (“life”) starts with the letter “l”; the second word (“liberty”) also starts with the letter “l”; but then the pattern breaks when

.....

²⁶ Jefferson’s “Original Rough Draught” of the Declaration of Independence, THE PAPERS OF THOMAS JEFFERSON, VOLUME 1: 1760–1776 423–28 (Princeton U. Press 1950), available at <https://jeffersonpapers.princeton.edu/selected-documents/jeffersons-“original-rough-draught”-declaration-independence>. Compare with the final version, available at <https://www.archives.gov/founding-docs/declaration-transcript>.

²⁷ HENRY STEPHENS RANDALL, THE LIFE OF THOMAS JEFFERSON 178 n.3 (1858) (quoting from Jefferson’s letter to Walsh in 1818).

²⁸ See, e.g., SCOTT DOUGLAS GERBER, TO SECURE THESE RIGHTS: THE DECLARATION OF INDEPENDENCE AND CONSTITUTIONAL INTERPRETATION 28 (1995); Kenneth D. Stern, *John Locke and the Declaration of Independence*, 15 CLEMSON L. REV. 186, 189 (1966).

you get to the third item (“estate”). Ward Farnsworth, the dean of the University of Texas Law School, has a nice way of describing how changing up a rhetorical pattern can have a pleasing and persuasive effect, particularly when the change comes after two examples of the same thing. In these circumstances, he writes in *Classical English Rhetoric*, “the ear welcomes the relief.”²⁹

I am not sure that the marketing team at Jimmy John’s has read Farnsworth’s book. But they seem to understand the phenomenon he identifies, at least judging by one of their promotional slogans.³⁰

Fresh. Fast. Tasty.
(same) (same) (kind of different)

The same appears to be true of the folks at Sidley Austin LLP, one of the largest law firms in the world. As of the summer of 2018, the firm’s website showcased this tagline.

Talent. Teamwork. Results.³¹
(same) (same) (kind of different)

Big Law gets the Rule of Three.

IV. Phrasemakers

The focus of this essay has been on phrases because if you learn how to create effective phrases, you can learn how to create effective sentences; and if you learn how to create effective sentences, you can learn how to create effective paragraphs; and if you learn how to create effective paragraphs, you can produce some really great writing.

Here, for example, is Justice Oliver Wendell Holmes using the “short, short, kind of long” version of the Rule of Three in his celebrated dissent in *Lochner v. New York*, a piece of writing Judge Richard Posner called “the greatest judicial opinion of the last hundred years”³² in his 1998 book *Law and Literature*.

The liberty of the citizen to do as he likes so long as he does not interfere with the liberty of others to do the same, which has been a shibboleth for some well-known writers, is interfered with *by school laws, by the Post*

²⁹ WARD FARNSWORTH, *FARNSWORTH’S CLASSICAL ENGLISH RHETORIC* 71 (2010).

³⁰ For a photo of the slogan, see, e.g., Heber Valley, http://www.gohebervalley.com/jimmy_johns.

³¹ SIDLEY AUSTIN LLP, <https://www.sidley.com/en/us/> (last visited May 17, 2018).

³² RICHARD POSNER, *LAW & LITERATURE* 346 (3d ed. 2009).

*Office, by every state or municipal institution which takes his money for purposes thought desirable, whether he likes it or not. The Fourteenth Amendment does not enact Mr. Herbert Spencer's Social Statics.*³³

And here is a William Finnegan using it in *Barbarian Days: A Surfing Life*, which won the 2016 Pulitzer Prize. Finnegan shows that the Rule of Three can do more than help craft a single sentence; it can also help craft an entire string of sentences.

Nobody bothered me. Nobody vibed me. It was the opposite of my life at school.³⁴

A final example comes from the opening statement in the trial of Timothy McVeigh, who was convicted of blowing up a federal building in downtown Oklahoma City in April of 1995. More than 250 people were killed in the blast. Trying to convey to the jury that none of the victims could have suspected the terrible fate that awaited them when they each got up that morning, the prosecutor in the case, Joe Hartzler, does exactly what Finnegan does in *Barbarian Days*: he uses the Rule of Three to craft a string of sentences.

The sun was shining. Flowers were blooming. It was springtime in Oklahoma City.

Later, Hartzler returns to the same structure, this time employing a kind of Rule of Three in Reverse: instead of using the order “short, short, kind of long,” he uses the order “long, long, kind of short.”

We'll present a lot evidence against McVeigh. (*long*)
We'll try to make your decision ultimately easy. (*long*)
That's our goal. (*kind of short*)³⁵

Notice, however, that “long, long, kind of short” is still “same, same, kind of different.” Or as Farnsworth might put it: “same, same, relief.”

33 *Lochner v. New York*, 198 U.S. 45, 75 (1905) (Holmes, J. dissenting) (emphasis added).

34 WILLIAM FINNEGAN, *BARBARIAN DAYS: A SURFING LIFE* 8 (2015).

35 Opening Statement by Prosecutor Joseph Hartzler (Apr. 24, 1997), available at <http://www.famous-trials.com/oklacity/727-hartzleropening>. For another example of the Rule of Three in Reverse, see this sentence in *The Writing Life* by Annie Dillard: “The page is jealous and tyrannical; the page is made of time and matter; the page always wins.” ANNIE DILLARD, *THE WRITING LIFE* 57 (1989).

V. Visible Speech

Hartzler’s opening statement is a good place to end. That it started out as something written and ended up as something spoken—nobody “wings” an opening statement in a case with stakes this big—highlights the connection between writing and speaking. Most people preparing to give a speech understand this connection. They write out what they are going to say beforehand, even if the plan is to eventually deliver their remarks without any notes.

Not enough people, however, realize the connection is also important when the end product will remain on a page. Writing, the linguist John DeFrancis has noted, is “visible speech.”³⁶ It is a way of communicating sound and meaning through symbols. Neglect that sound, neglect the possibility for rhythm and melody in sentences, the chance to use pace and harmony, tone and expressiveness—neglect all those musical elements and you neglect much of what gives words their value. As the poet Robert Frost remarked in a letter to a friend in 1914, “The ear is the only true reader and the only true writer.”

And no surprise: Frost’s own ear was a big, big fan of the Rule of Three, as excerpts from two of his poems show.

What country’d be the one to dominate
 By character, by tongue, by native trait.
(same) *(same)* *(different)*
 — “The Dedication” (1961)

(same) *(same)*
 The faded earth, the heavy sky,
 The beauties she so truly sees.
(different)
 — “My November Guest” (1915)

VI. Conclusion

After reading about a writing concept like “The Rule of Three,” getting the chance to play around with it can be very useful for the many lawyers, judges, and academics whose job is to craft clear, effective sentences, as can seeing the rule applied in a wider range of fields “The best way to become a good legal writer,” Judge Frank Easterbrook insisted when asked what lawyers can do to improve their compositional skills, “is to spend more time reading good prose.” He specifically recommended the novels

of Ernest Hemingway, William Faulkner, and Saul Bellow, though he also said much can be learned from regularly reading well-edited magazines like *The Atlantic* and *Commentary*. The selections in the two short sections below reflect, if not those exact authors and publications, at least the spirit of Judge Easterbrook's suggestion.

One of the sections is a "Questions Section." It won't be graded. There is no penalty for guessing wrong or for skipping questions that don't work for you. It is simply a chance to stretch your brain a bit and engage in a more active, even playful form of learning.

The other is an "Examples Section." Some of the examples illustrate the concept; others simply provide another way of articulating it. The hope is that each will give you a fuller understanding of how to process and ultimately use the rule of three.

A. The Rule of Three: Questions

1. Children

The Rule of Three gets ingrained early in life. Complete these phrases, all of which come from material designed for various ages of children.

- C.S. Lewis: "The Lion, the Witch, and the _____"³⁷
- *The Little Engine That Could*: "I think I can. I think I can.
_____"³⁸
- *Superman*: "It's a bird. It's a _____. It's Superman!"³⁹

2. Slogans

Non-profit organizations often have the Rule of Three in their slogans. Match the slogan with the organizations that has used it.

Slogan

1. Defending. Empowering. Influencing.
2. We build strength, stability and self-reliance through shelter.
3. Helping youth is a key to building a more conscientious, responsible, and productive society.

.....

37 Missing word: "Wardrobe." C. S. Lewis, *THE LION, THE WITCH, AND THE WARDROBE: THE CHRONICLES OF NARNIA BOOK I* (1950).

38 Missing phrase: "I think I can." WATTY PIPER, *THE LITTLE ENGINE THAT COULD* (Penguin ed. 2005).

39 Missing word: "plane." *THE ADVENTURES OF SUPERMAN* (ABC television broadcast 1952) (The phrase, "It's a bird, it's a plane, it's Superman!" appeared as dialogue in the introduction to every episode of the series), *available at* <https://www.youtube.com/watch?v=Q2l4bz1FT8U>.

Group

- A. Habitat for Humanity
- B. American Civil Liberties Union
- C. Boy Scouts of America⁴⁰

3. Alliteration

The Rule of Three is often combined with alliteration. Fill in the blank in the sentences below. Even if you don't recognize the sentence, you may be able to figure out the missing word, given that it starts with the same letter as the other items in the list.

"It is not from the benevolence of the butcher, the brewer, or the _____ that we expect our dinner, but from their regard to their own interest."

—Adam Smith,
The Wealth of Nations (1776)⁴¹

"In subsequent cases also, we have recognized the fundamental right of parents to make decisions concerning the _____, custody, and control of their children."

—Justice Sandra Day O'Connor,
Troxel v. Granville (2000)⁴²

"We are a free clinic staffed by Michigan Law students that provides Unemployment Insurance advocacy, _____, and assistance to Michigan workers."

—Website of the Unemployment
Insurance Clinic at the University of
Michigan Law School

40 ANSWERS

1/B ACLU, <https://www.aclu.org> (last visited Apr. 11, 2018).

2/A Habitat for Humanity, *Annual Report FY 2016*, available at <https://www.habitat.org/sites/default/files/annual-report-2016.pdf>.

3/C *About the Boy Scouts of America*, BOY SCOUTS OF AMERICA, <http://www.scouting.org/about.aspx> (as of Jun. 11, 2017) (copy on file with author).

41 Missing Word: "baker." ADAM SMITH, AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS 6 (Nelson ed. 1843).

42 Missing word: "care." ("In subsequent cases also, we have recognized the fundamental right of parents to make decisions concerning the care, custody, and control of their children.") 530 U.S. 57, 66 (2000).

4. Titles

The titles of books and articles often use the Rule of Three. From the two lists below, match the title with the subtitle.

Title

1. *Lean In* by Sheryl Sandberg
2. *Nudge* by Cass Sunstein and Richard Thaler
3. *Superfreakonomics* by Steven Levitt and Stephen Dubner
4. *The Bully Pulpit* by Doris Kearns Goodwin
5. *Property Rules, Liability Rules, and Inalienability* by Guido Calabresi and Douglas Melamed

Subtitle

- A. *Improving Decisions in Health, Wealth, and Happiness*
- B. *Women, Work, and the Will to Lead*
- C. *One View of the Cathedral*
- D. *Theodore Roosevelt, William Taft, and the Golden Age of Journalism*
- E. *Global Cooling, Patriotic Prostitutes, and Why Suicide Bombers Should Buy Life Insurance*⁴³

5. Ugly Side

I often tell my students that there is an ugly side to the Rule of Three, by which I mean that the Rule of Three's attractive rhythm has been used to promote some unattractive causes. Match the offensive phrases below with their original source.

Phrase

1. "Segregation today. Segregation tomorrow. Segregation forever!"
2. "Gas, Grass, or Ass. Nobody rides for free."

43 ANSWERS

- 1/B SHERYL SANDBERG, *LEAN IN: WOMEN, WORK, AND THE WILL TO LEAD* (2013).
- 2/A RICHARD H. THALER & CASS R. SUNSTEIN, *NUDGE: IMPROVING DECISIONS ABOUT HEALTH, WEALTH, AND HAPPINESS* (2008).
- 3/E STEVEN LEVITT & STEPHEN DUBNER, *SUPERFREAKONOMICS: GLOBAL COOLING, PATRIOTIC PROSTITUTES, AND WHY SUICIDE BOMBERS SHOULD BUY LIFE INSURANCE* (2009).
- 4/D DORIS KEARNS GOODWIN, *THE BULLY PULPIT: THEODORE ROOSEVELT, WILLIAM HOWARD TAFT, AND THE GOLDEN AGE OF JOURNALISM* (2013).
- 5/C Guido Calabresi & A. Douglas Melamed, *Property Rules, Liability Rules, and Inalienability: One View of the Cathedral*, 85 HARV. L. REV. 1089 (1972). (Note: The Calabresi and Melamed title inverts the usual order of the Rule of Three. Instead of using the Rule of Three in the subtitle—as all the other examples do—it uses the Rule of Three in the main title.)

3. “Remember the weak, meek, and ignorant are always good targets.”
4. “We can delay and effectively stop for a temporary period of indefinite length the number of immigrants into the United States. We could do this by simply advising our consuls to put every obstacle in the way and to require additional evidence and to resort to various administrative devices which would postpone and postpone and postpone the granting of the visas.”
5. “Ein Volk, Ein Reich, Ein Führer.” (Translation: “One People, One Nation, One Leader.”)

Source

- A. Adolf Hitler and the Nazi Party
- B. Former Governor of Alabama George Wallace
- C. Bumper sticker targeted by anti-human-trafficking groups
- D. Memo given to unscrupulous bond sellers who would eventually be implicated in the 1980s Savings and Loans Crisis
- E. Memo written by State Department official Breckinridge Long about how to avoid offering visas to Jewish refugees during World War II ⁴⁴

B. The Rule of Three: Examples

1. Martin Luther King

“Free at last. Free at last. Thank God almighty, we are free at last.”
—Martin Luther King, “I Have a Dream” (1963)

44 ANSWERS

- 1/B “Segregation today. Segregation tomorrow. Segregation forever!” George Wallace, Gov. of Alabama, Inauguration Address (Jan. 14, 1963), *available at* <http://www.blackpast.org/1963-george-wallace-segregation-now-segregation-forever>.
- 2/C “Gas, Grass, or Ass. Nobody rides for free.” Bumper sticker targeted by anti-human-trafficking groups.
- 3/D “[R]emember the weak, meek, and ignorant are always good targets.” Memo given to unscrupulous bond sellers who would eventually be implicated in the 1980s Savings and Loans Crisis. Tom Furlong, *The Keating Indictment: Targets of Bond Sellers: The ‘Weak, Meek, Ignorant’*, L.A. TIMES, Sept. 19, 1990, *available at* http://articles.latimes.com/1990-09-19/business/ft-692_1_bond-sales-program.
- 4/E “We can delay and effectively stop for a temporary period of indefinite length the number of immigrants into the United States. We could do this by simply advising our consuls, to put every obstacle in the way and to require additional evidence and to resort to various administrative devices which would *postpone* and *postpone* and *postpone* the granting of the visas.” Memorandum from Asst. Sec. of State Breckinridge Long to State Dept. officials (Jun. 26, 1940), *available at* <https://www.facinghistory.org/rescuers/breckinridge-long-memorandum> (emphasis added) (last visited May 19, 2018).
- 5/A “Ein Volk, Ein Reich, Ein Führer.” (Translation: “One People, One Nation, One Leader.”) David Welch, *Nazi Propaganda* (Feb. 17, 2011), *available at* http://www.bbc.co.uk/history/worldwars/wwtwo/nazi_propaganda_gallery_03.shtml.

2. Writing Tools:

In our language and culture, three provides a sense of the whole:

Beginning, middle, and end.
 Father, Son, and the Holy Ghost.
 Moe, Larry, and Curly.
 Tinkers to Evans to Chance.
 A priest, a minister, and a rabbi.
 Executive, legislative, judicial.
 The *Niña*, the *Pinta*, and the *Santa Maria*.

—Roy Peter Clark,
*Writing Tools: 55 Essential Strategies
 for Every Writer* 100 (2008)

3. Justice Sotomayor:

“For example, imagine you are the general manager of the Yankees and you are rounding out your 2016 roster. You tell your scouts to find a defensive catcher, a quick-footed shortstop, or a pitcher from last year’s World Champion Kansas City Royals.”

—Justice Sonia Sotomayor
Lockhart v. United States,
 136 S. Ct. 958, 963 (2016)

4. Spoon River:

“Suppose a boy steals an apple
 From the tray at the grocery store,
 And they all begin to call him a thief,
 The editor, minister, judge, and all the people—
 ‘A thief,’ ‘a thief,’ ‘a thief,’ wherever he goes.
 And he can’t get work, and he can’t get bread
 Without stealing it, why the boy will steal.
 It’s the way the people regard the theft of the apple
 That makes the boy what he is.”
 —Edgar Lee Masters, “Aner Clute” (1916)

5. Sylvia Plath:

“I took a deep breath and listened to the old brag of my heart. I am, I am, I am.”
 —Sylvia Plath, *The Bell Jar* (1963)

6. Justice Brandeis:

“The right of free speech, the right to teach, and the right of assembly are, of course, fundamental rights.”

Justice Louis Brandeis, concurring, *Whitney v. California*, 274 U.S. 357, 373 (1927)

7. Atticus Finch:

“As you grow older, you’ll see white men cheat black men every day of your life, but let me tell you something and don’t you forget it—whenever a white man does that to a black man, no matter who he is, how rich he is, or how fine a family he comes from, that white man is trash.”

—Harper Lee,

To Kill a Mockingbird 252 (2015 ed.)

8. Trial Courts:

“The cornerstone of the American judicial system is the trial courts. . . in which witnesses testify, juries deliberate, and justice is done.”

—Justice William Rehnquist,

Engraving in the Lloyd George Federal
Courthouse in Las Vegas, Nevada