By Bryan A. Garner

Ten Tips for Writing at Your Law Firm

If you are a new associate at a law firm, you'll be judged primarily on two things: your interpersonal skills and your writing. Although the requirements of your writing assignments will vary depending on your organization, your supervisor, and your clients, here are ten points you can be certain about:

1. Be sure you understand the client's problem. When you get an assignment, ask plenty of questions. Read the relevant documents and take good notes. Learn all you can about the client's situation. If you're asked to write a memo but aren't told anything about the client's actual problem, ask what it is. There's almost no way to write a good research memo in the abstract. As you're reading cases and examining statutes, you'll be in a much better position to apply your findings to the problem at hand if you know at least some of the specifics.

2. Don't rely exclusively on computer research. Be sure to combine book research with computer research. Don't overlook such obvious resources as *Corpus Juris Secundum* and *American Jurisprudence.* The new eighth edition of *Black's Law Dictionary* may help you get into West's key-number system. Look at indexes, digests, hornbooks, and treatises to round out your understanding of the subject.

3. Never turn in a preliminary version of a work in progress. One of the most common shortcomings of a diffident researcher, especially when a project is slightly overdue, is to turn in an interim draft in hopes of getting preliminary feedback. That can be ruinous. Your supervisor typically won't want to read serial drafts. And you shouldn't turn in tentative work—it's better to be a little late than to be wrong. That goes for turning in projects to impatient clients as well.

4. Summarize your conclusions up front. Whether you're writing a research memo, an opinion letter, or a brief, you'll need an up-front summary. That typically consists of three things: the questions, the answers to those questions, and the reasons for the answers. If you're drafting a motion, try to state on page one why your client should win—and put it in a way that your mom or dad could understand. That's your biggest challenge.

If you're writing a research memo, put the question, the answer, and the reason up front. Don't delay the conclusion until the end of the memo, as guileless writers do (on the mistaken assumption that the reader will slog all the way through the memo). And don't ever open with a full-blown statement of facts—despite what you may have learned elsewhere.

5. Make your summary understandable to outsiders. It's not enough to summarize. You must summarize in a way that every conceivable reader—not just the assigning lawyer—can understand. So don't write your issue this way: "Whether Goliad can take a tax deduction on the rent-free space granted to Davidoff under IRC 170(f)(3)?" That's incomprehensible to most readers because it's too abstract, and it assumes insider knowledge. Also, it doesn't show any mastery of the problem.

You'd be better off setting up the problem in separate sentences (and keeping the issue under 75 words): "Goliad Enterprises Inc., a for-profit corporation, has granted the Davidoff Foundation, a tax-exempt charity, the use of office space in Goliad's building free of charge. Will the Internal Revenue Service allow Goliad to claim a charitable deduction on its income-tax return for the value of its rent-free lease to Davidoff?"

Then, you put the brief answer: "No. Section 170(f)(3) of the Internal Revenue Code disallows charitable deductions for grants of partial interests in property such as leases."

If you're a summer associate aiming for a full-time offer, you'll look like a much smarter writer when you consider your secondary as well as your primary audience. Hiring decisions are made partly by committees that review writing samples—and those committees have no knowledge of the original assignment.

6. Don't be too tentative in your conclusions, but don't be too cocksure, either. Law school exams encourage students to give the one-hand-other-hand approach: It could be this or it could be that. In law practice, this approach isn't valued as much as giving your best thought about how a court will come down on an issue.

Let's say your firm represents clients in two cases involving similar issues. One case is in the Northern District of Florida and the other is in the Southern District of Florida. You've been asked to write about whether the cases in different districts can be consolidated.

As it happens, the answer is pretty clear-cut: no. The Federal Rules require both actions to be before a single judge for the cases to be consolidated. One of the cases will have to be transferred before they are consolidated. So you should say just that. "Probably not" just makes you sound spineless when the rest of your memo shows that the conclusion is pretty clear.

But learn to second-guess yourself before you come out with a "yes" or "no." Why might it be otherwise? And if it might be otherwise, then say precisely why. If your answer

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is "probably," say precisely what kinds of facts might make the decision go the other way. You can do all this as part of a short, tidy summary.

7. Strike the right professional tone—natural but not chatty. Some young lawyers, when told to avoid legalese, end up being unduly informal. They don't observe the norms of Standard English, especially in their e-mail messages. For example, they write "u" instead of "you" and "cd" instead of "could." And they use emoticons ;-). Even if you find yourself working for a firm where some of the lawyers do these things, exercise restraint. Use ordinary punctuation and capitalization in your e-mail messages. Your colleagues won't think any less of you, and your supervisors will appreciate your attention to the firm's dignity.

8. Master the local citation form. Your firm may well cover this in orientation. If not, you'll need to find out what the standards are for citing authority. In Michigan, lawyers follow the *Michigan Uniform System of Citation* (rev. ed. 2006). In New York, they should (but frequently don't) follow the *New York Law Reports Style Manual* (2002). In Texas, every knowledgeable practitioner follows the *Texas Rules of Form* (10th ed. 2003). Other states have their customary guides. Even if you're not inclined to care much about these things, you'd better learn to obsess over them.

9. Cut every unnecessary sentence; then go back through and cut every unnecessary word. Verbosity will make your writing sag. Never pad, and learn to delete every extra word. For example, *general consensus of opinion* is doubly redundant: a consensus relates only to opinions, and a consensus is by its very nature general. You can replace the phrase *a number of* with *several* or *many*. And the phrase *in order to* typically has two words too many—*to* can do the work alone. So instead of *in order to determine damages*, write *to determine damages.*

Think of Judge David Bazelon of the United States Court of Appeals for the District of Columbia. He knew the value of tightening prose. When his student clerk, Eugene Gelernter (now a New York litigator), went to see Judge Bazelon about a draft opinion, the great judge said: "Nice draft, Gene. Now go back and read it again. Take out every sentence you don't need. Then go back and take out every word you don't need. Then, when you're done with that, go back and do it all again." We should all have such a mentor.

10. Proofread one more time than you think necessary. If you ever find yourself getting sick of looking at your work product and start to do something rash such as turn it in at that moment, pull yourself up short. Give it a good dramatic reading. Out loud. You'll catch some errors—and you'll be glad you did.

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