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Not the Time for an Opus

No judge ever says, 'I just wish the attorney had used bigger words.'

By Ross Guberman

Congratulations! As a new lawyer, you're about to fulfill a dream of many: to work as a well-paid professional writer. Now for the less-good news. At most law firms, associates think writing is their greatest strength, while the partners think writing is the associates' greatest weakness.

As a writing consultant and trainer for dozens of AmLaw 100 firms, I spend my time helping associates prove those partners wrong. I ask what those partners want to see in work product—and then give associates practical tips in how to deliver. Here are some tips for you to start your first year strong.

1. You wanted what? Amid the hustle and bustle of law firm life, supervisors often forget to relay key information about assignments. If you ask the right questions, though, you can avoid the most common misunderstandings: (1) how long the work product should be, (2) how much time you should spend, (3) whether the firm has another document you can use as a model, (4) what format the assignment should take, and (5) what the assigning attorney will do with your project once you submit it.

2. Don't be a stranger. After you've worked on a project for several hours, call or e-mail your supervisor to explain where things stand and what questions remain. Communicating in this way will also help you focus your thoughts and avoid drowning in the details of your research.

3. Easy does it. If you have writer's block, turn your task on its head. Rather than stare at a gaping blank screen in a growing state of paralysis, tell yourself that you're only allowed to handwrite four sentences about whatever issue you need to address. Your writer's block will disappear—and you'll also have the basis for solid big-picture structure. Type those four sentences on your screen, and go from there.

4. Descend from the clouds. According to partners, many new associates err by trying to show off their newfound legal lexicon or intellectual firepower. No one cares if your work product is "impressive" in the abstract. Instead, when supervisors review your work, they're asking themselves whether what you've written can help solve a problem, change someone's mind, or get the client's job done. Everything on the page should be for the reader, not the writer.

5. Take a stand. When drafting memos, avoid the navel-gazing "on the one hand, on the other hand" approach that often characterizes junior associate work. Also avoid the old saw that "the law is unclear." That's why the assigning attorney needs a memo! Use your judgment to make the law clear—or at least clearer. Try to deduce trends in the law or at least explain why courts or regulators disagree.

6. Remember the sweet spot of style. In the words of a Wisconsin judge, "Great legal writing does not sound as though it was written by a lawyer." Indeed, as attorneys gain confidence and experience, their sentences become lighter and tighter—less "lawyerly" and more refreshing. Here's the truth: If readers don't understand your sentences, they won't find your prose "interesting" or "complex," as many associates would hope. Instead, they'll assume you are a poor writer—or worse, a poor thinker. By contrast, if readers feel smart when they read your writing, they'll think you are smart. No partner or judge has ever said, "Terrific brief. I see the issues clearly and understand how to resolve them. I just wish the attorney had used bigger words and longer sentences."

7. Trim is in. With every assignment, block out time to cut needless words, phrases, and constructions. If you are ruthless on the word level, you'll never need to cut substance. Your writing will also have a high bang-per-buck ratio—which will make the reader believe that every word counts.

8. Don't stand on authority. When it comes to statutes, case law, and regulatory orders, describe less and analyze

more. Explain how the authorities help make your argument or support your conclusions. Don't focus on what the parties did or even what the court or agency "stated" about each issue. In other words, get beyond copying and summarizing; connect your authorities to your analysis so the reader doesn't have to do so for you.

9. Use the one-minute rule. Do you want a single structure principle that will help make partners happy? Move your conclusions to the front! A partner who will read 300 pages to learn how a murder mystery resolves will still refuse to wade through 10 pages to find out whether collateral estoppel applies. Before submitting any assignment, print it out and then pick it up as if you were the assigning attorney. Start reading. After the first few paragraphs, stop and ask yourself the following: "Have I answered the key question that prompted this assignment?" If the answer is "no," draft a new opening that starts with the bottom line and saves the details for later.

10. Does anal-retentive have a hyphen? You don't want to learn the hard way how much partners care about typos and other errors. To avoid mishaps, try proofreading from the last sentence to the first. And check every document for the most common mistakes: it's versus its; affect versus effect; and principal versus principle, just to name a few. If you have any usage questions, look up the answers in a reliable authority (that doesn't include Google, by the way). Also read your final edit aloud: You'll catch many mistakes, and if you ever run out of breath halfway through a sentence, you'll know that sentence is too long.

11. Find strength in numbers. Most of us lawyers are better editors than writers. Consider asking your colleagues to review your drafts before you send them up the food chain. Even if the "editors" can't bill the time, trading drafts is a great way to build skills and relationships.

12. You're perfect, now change. Consider feedback a gift. Some associates want to challenge their assigning attorney's edits. Others become defensive or throw up their hands. Using criticism to your advantage can be as important as writing well in the first place. Maintain a single document for the changes supervisors make during your early years at the firm. You may want to divide these edits into four groups: stylistic (cutting clutter and making sentences more forceful); structural (staying "on message" and using authorities effectively); mechanical (wording, usage, and formatting); and substantive (understanding nuances in the law and making judgment calls about which arguments are best).

13. Realize when it's triage time. Don't obsess over idiosyncratic style differences among partners ("Does she prefer 'on the part of' or 'on its part'"?). Wording preferences are fun to track, but partners are not always consistent. In any event, it's better to spend your time on the 95 percent of writing traits that all partners want to see improved: cluttered prose, awkward clauses and sentences, rambling structure, faulty usage, ineffective use of authorities.

14. Enjoy the happy days. Law firm writing is more skill than talent, more science than art. Consider your projects an outgrowth of what brought you to the profession in the first place. As a lover of language, you should enjoy polishing your style and mastering even the most fastidious usage rules. As a lover of thinking, you should enjoy turning scattered factoids and research threads into a well-honed analysis. Put another way, the more your projects are a pleasure to write, the more they'll be a pleasure for your supervisors to read.

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