



Four Things to Consider

Sending Your First Memo to a Client

By Jeffrey J. White

Although law schools have tried to create more opportunities for apprentice-style learning, new lawyers often struggle to hone their client communication skills. Law schools rarely teach such skills so new lawyers must diligently learn how to communicate effectively in writing to their clients mostly on their own. Communicating with a client can be very different from communicating with a judge. A young associate's first foray into lawyer-client communication is often a legal memorandum. Although several rules of the road apply to legal memos, new lawyers, and all lawyers, for that matter, should consider at least four things before sending a memo to a client for the first time.

First, writing an introduction is important.

Imagine that you are a CEO. Your primary responsibilities are to the company shareholders and employees of that company. At one point during the day, you read a memo on an important issue, but it represents just one aspect of an otherwise busy day. From this vantage point, you can appreciate how important a short, concise introduction in a legal memo becomes. A truly outstanding memo should get to the point as quickly as possible. A memo is like an onion: it has many layers. If a client wishes to peel back several layers and read the entire analysis, then the client should have that option. But a client should also have the option of reading a few introductory paragraphs to get a handle on the relevant issues, too. For this reason, you should also write a cover e-mail to preview the issues just in case a client does not have time to review a memo at length.

Second, know your client's objectives.

A lawyer will often overlook this obvious piece of advice. You need to learn the business of your client so that you can offer strategic guidance that not only assists with a client's legal endeavors but also comports with a client's business goals. Almost always, the issues that you identify in a legal memo will represent only one piece of a large puzzle that affects a business as a whole. For instance, assume that you are defending a manu-

facturer in a product liability case and your client asks about the legal implications of changing the design of the product from which the litigation stems. Most lawyers would have difficulty overcoming the temptation to dedicate pages of a memo to discussing the law of subsequent remedial measures and the possible downside of changing a product design during the litigation. Remember, however, that your client has large objectives that encompass more than those associated with an individual case. Perhaps that client is willing to take a legal risk in the hope of launching a product line that creates revenue that dwarfs an adverse verdict. To provide sound legal advice to your client and to think strategically, you need to understand a client's objectives clearly when preparing critical memos.

Third, know your audience.

One common mistake that new lawyers make is to assume that only individuals named in the "to" line read the memos that they write. With large institutional clients or insurance company clients, the individuals to whom you address memos often circulate the memos to supervisors, such as the general counsels, and other company employees. For that reason, make your writing accessible in both form and substance. With respect to format, avoid the loaded "one-thousand-dollar words" that require a dictionary or a course in Latin. With respect to substance, remember that a reader may not know all of the circumstances that you discussed with your primary client contact. Often a lawyer will send a memo that continues a previous conversation with a client contact that leaves out the details necessary for someone reading about the issues for the first time to understand the issues quickly.

Fourth, embrace the hurdles.

Lawyers only on very few occasions can use absolutes or predict outcomes with certainty. An effective memo to a client reflects this. A nuanced analysis identifies the strengths and weaknesses of a particular issue and attempts to provide meaningful guidance. Most lawyers recognize that it is important to identify hurdles or roadblocks in a memo so that a client is fully advised. Identify those hurdles at the beginning of a memo so that they are not buried in text. Although challenging, presenting strategies in a memo to address hurdles or roadblocks is equally important. At the end of the day, you must always remember that you demonstrate your true value

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to a client by offering guidance to address
legal problems rather than by offering a set

of principles and case law. Ultimately, at the
core, a good legal memorandum recognizes
and advances your client's business objec-

tives, and attorneys will write them with
that goal in mind. 