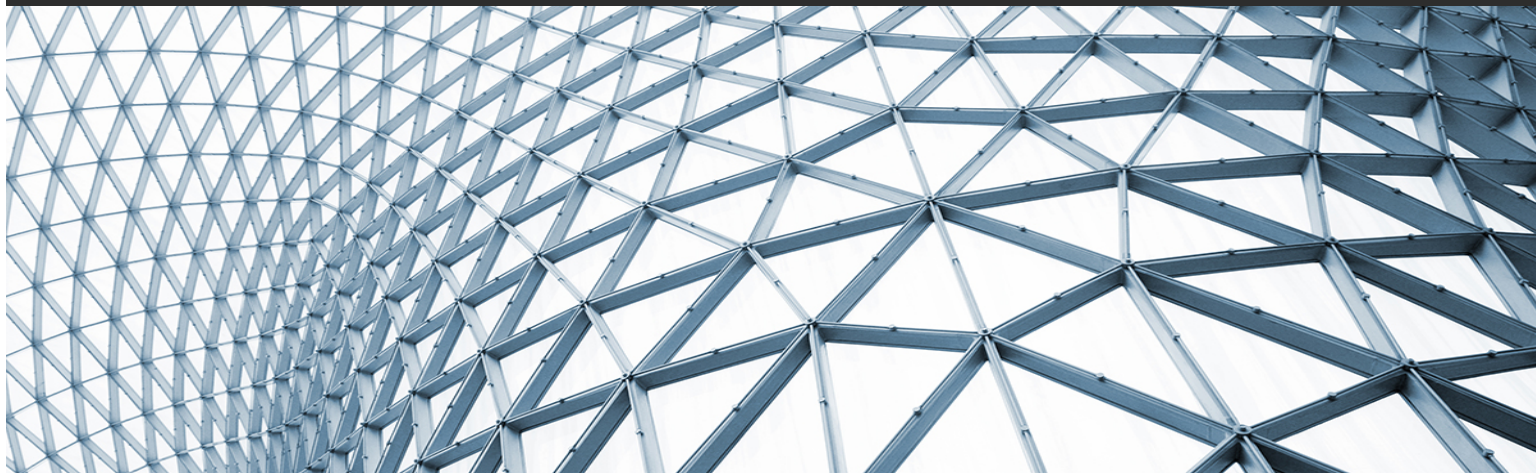


Avoid These Five Errors and Draft Your Best Legal Work



By **Caroline R. Robb** | **April 1, 2020** | **The Legal Intelligencer**

For some lawyers, legal writing comes naturally. For others, it is a process learned and improved over time. Regardless of where you stand, legal writing can always be refined and enhanced because effective legal writing is at the core of what we do as lawyers. As a midlevel associate at a large law firm, I spend most of my time writing or reading the work of others, and I have noticed that new attorneys make several common mistakes. By avoiding them, you can quickly improve your work product.

Using Legalese and a Passive Voice

Remember the goal for any form of legal writing: advocating for your client. Your writing should get your point across clearly and succinctly without leaving the reader confused. This is true for clients, opposing counsel, judges and court staff alike. Legalese is convoluted and often forces a reader to reread sentences, paragraphs or sections to understand your point. This is confusing, time-consuming, and causes the reader to lose focus on your core legal arguments. Similarly, when you use passive voice, you burden the reader with identifying the actor in the sentence, again making the reader lose focus. Plain language and active voice make sentences clearer and easier to follow. Use this strategy both in the main body as well as parentheticals explaining your legal citations. Always review sections of your legal work for revision opportunities. Have others read your work and provide you feedback on the clarity of your writing. Find a trusted mentor or coworker to help with this process, regardless of the audience for your completed work product.

Overreliance on Forms

Even the most seasoned lawyers use forms as a starting point or guide, but overreliance on forms can lead to careless errors. Nothing is worse than having a client or a court find an error left in a document that came

from a sample or form. The reader loses faith in the work product upon finding such careless errors. When filling in a form or tailoring a document to your case, be mindful of the fact that no two cases, deals or transactions are the same. Pay close attention to the details of your case to avoid sloppy mistakes, like failing to change the parties' names, relying on outdated law or ignoring local rules. A trusted proofreader can help catch simple errors like incorrect party names, grammatical and spelling errors or confusing sentence structure. Always double check citations and local rules, as these are constantly changing.

Failing to Ask Questions

Senior attorneys don't expect associates to know everything or read minds. If you're confused about an assignment, or need more information, follow up with the assigning attorney. Pose those questions. It's better to get clarification or guidance before the deadline, then to turn in an assignment that is incomplete or inaccurate.

Turning in Rough Drafts

Don't confuse a "draft" with a "rough draft." When you submit an assignment for review by a supervising attorney or a client, it should be a polished work product that is free of careless errors. Organization of the document and arguments should be reviewed, refined and consolidated where possible. Search the document to make sure party names are correct and always run spellcheck. If you need more time, let the assigning attorney know as soon as possible. More often than not, he will give you additional time, especially if it will result in a more polished work product that requires less revision.

Bypassing a Final Proofread

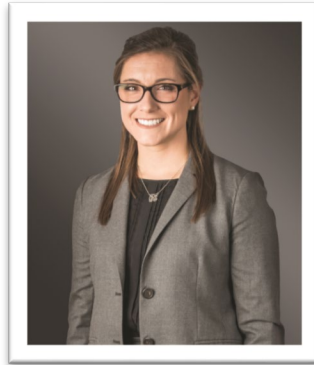
Finally, spellcheck is helpful, but it isn't fool-proof, so use other proofreading methods. One good option is to read your work product slowly aloud to yourself. Or, ask a colleague to review your work, if not for substance, for sentence structure, grammar and brevity. The truth is, whether we spend one hour or 50 hours drafting a document, we all tend to read what we think we wrote versus what we actually wrote. Readers with fresh eyes will be able to spot things that you may have overlooked, such as missing punctuation, typos, or minor grammatical errors. They also may catch repetitive ideas or ask you to clarify the points you think you made. This exercise will help improve the overall work product, so don't dismiss this step.

In the end, regardless of whether you're writing a research memo, a contract or an appellate brief, the same general rules apply. Your work should be clear, focused and polished when you submit it to the assigning attorney. If you learn to recognize these five errors, you can make a conscious effort to avoid them and improve your writing.

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About the Author:

Caroline R. Robb is based in the Philadelphia office of global law firm Greenberg Traurig. She defends against claims of wrongful termination, retaliation, harassment, and discrimination as well as counsels employers on various aspects of labor and employment law.



Caroline R. Robb
robbc@gtlaw.com