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Putting Your Best Foot Forward

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Recommended Citation

Ridenour, Heather, "Putting Your Best Foot Forward" (2012). *Articles in Law Reviews & Other Academic Journals*. 1436.

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BY HEATHER E. RIDENOUR
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Putting your best foot forward

My grandmother always told me that you only make a first impression once, so you better be on your best behavior: Be polite, be courteous, and do not do anything that will reflect poorly.

How often is it that we get a second chance to make a first impression? Rarely, as the practice of law eschews do-overs. As lawyers, it is often our writing, not our behavior, that makes a first impression. Many times we “meet” opposing counsel, judges, and perhaps even clients, through letters or emails before we actually meet in person. Accordingly, our writing should sell us as competent, courteous, professional, thorough, current, and skilled – all characteristics that make a winning first impression (and make my grandma proud).

In trying to put your best foot forward, consider what kind of first impression your writing makes. How can you improve upon what your writing says about you? This column, primarily written by guest columnist Professor Heather E. Ridenour, with a little help from grammar curmudgeon Professor David H. Spratt, discusses writing strategies and techniques and what they say about you as a lawyer.

Using misspelled words/incorrect grammar

Spelling errors or grammar atrocities suggest inattention to detail and sloppiness, leaving the reader with the impression that you are either not the sharpest crayon in the box or that you simply do not care about your work product. Neither character trait, hopefully, is one that you want to have. How many subsequent meetings will it take to combat this first impression? If your first impression is sloppy, then you will likely forever be seen as a careless, unworthy, and unchallenging “adversary.”

Using archaic language/boilerplate

Using outdated, obsolete language, i.e., language that has no current legal effect and that you included simply because you saw it in a form book, gives the impression you are not current in your knowledge. The law is ever-changing and evolving. The trend in legal writing is to get back to using plain language that clients do not need a law degree to understand. If you use archaic language, the reader thinks you are not up to date on current legal developments and incapable of practicing law in 2012.

If you rely on boilerplate (see Spring 2012 “Writer’s Block” column for more on this issue), you are saying that you are simply too lazy to make your document fully about the current

case. Relying on tired cutting and pasting and recycling work you did for another client does not make it appear to opposing counsel that you are a formidable opponent, and it does not make your client feel good about her choice of counsel.

Picking your words without thinking

A good friend of mine has a talkative 6-year-old son. He loves asking questions, and he loves to talk about himself. On his last report card, his kindergarten teacher wrote, “He asks many questions to explore a variety of topics and tells stories with many details.” The use of that phrase makes language an art form. We all know that the teacher wanted to say that he talks about himself in excruciating detail and asks too many questions. But she thought about her audience and the effect that her words would have; the way she phrased her point made it much easier to swallow.

As lawyers, we have to do the same thing with our words. Sometimes we have to help people see the best option for them is not necessarily what they want or that a particular settlement proposal is better than what a court would award. We have to be wordsmiths. So, if our first impression is based on our written word, and our writing was effectively phrased using skillful word selection, then this approach will help the medicine go down more smoothly.

A bottle of Virginia wine carries with it many selling points: the winery, the varietal, the label, and the description. (When I moved to Virginia, Professor Spratt made me a convert – I, too, now agree with his love of Virginia wine.) Now given my job as a legal writing professor, I might purposely buy a wine with a typo on the label or poor word choice in the description so that I could use the bottle as a teaching tool in my class. But would you? Would the typo, pardon the pun, leave you with a bad taste in your mouth? Think of your writing as the wine label representing your first impression. Your writing should enhance the wine inside the bottle so that when consumed, the experience is so positive that people want to keep the label and wine bottle as a souvenir. Do not let your writing be the typo on the bottle that keeps a really good bottle of wine on the shelf because its contents were misjudged. ■

Questions, comments, and suggestions (as long as they leave good first impressions) are welcome at hridenour@wcl.american.edu.

Professor Heather E. Ridenour is a legal writing professor at American University, Washington College of Law, where she sometimes collaborates (bless her heart) with Professor Spratt.