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Giving Purpose to Your Life as a Legal Writer

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BY DAVID H. SPRATT
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giving “purpose” to your life as a legal writer

“Dad, I didn’t mean to!”
“I couldn’t help it, Dad!”
“It was an accident!”
“But Daaaad, I didn’t do it on purpose!”

As the father of an active, talkative seven-year-old boy (see last column), hearing comments like the ones above is an everyday occurrence. Many things “seem” to happen without rhyme or reason, and my son taking full responsibility for his actions or lack thereof is as rare as a perfectly-proofread paper in a 1L writing class.

Despite anecdotes to the contrary, lawyers should not act like seven year old boys. Lawyers need to be acutely aware of the purpose for which they are writing a document, intending every consequence and meaning every word. Although law students write documents for academic purposes (and to get a good grade), practicing lawyers are not afforded such luxury. Lawyers write documents for specific reasons, usually because someone (a client, a judge, an opposing counsel, etc.) wants an answer or hopes for a certain result. The best lawyers both consider their audience (again, see last column) and their purpose for writing from the outset. Once you have a sense of your purpose and audience, you will not produce a rambling document that contains irrelevant information and detail that does not help achieve your goal as a writer.

Many lawyers think “why me?” when receiving an assignment or when a daunting writing task looms before them. Before putting pen to paper (or fingers to keyboard),

think “why” generally, and make sure you answer these questions to fully understand, recognize, and appreciate the reason you are writing a document – giving “purpose” to your life as a legal writer:

1. Why am I writing this document and what question should this document answer?

Think of legal documents like snowflakes or fine bottles of Virginia wine (did you think I could get through an entire column without a plug?): each is unique, and each changes from season to season. Most documents (even documents of the same type) should be written for a slightly different reason, as no two cases are exactly alike. In the age of boilerplate, cutting and pasting, and one-size-fits-all thinking, resist the temptation to think that your purpose for writing a document in one case will mirror your purpose for writing the same document in another.

Some documents also have multiple purposes. For example, a settlement proposal letter sent to an opposing counsel has two purposes rolled into one: 1) persuading the opposing counsel to convince her client to accept the terms (persuasive writing) and 2) predicting what a court would likely award to each party if the case does not settle (predictive/objective writing). Similarly, an email to a client often provides information to the client (objectively) to persuade her to take or refrain from taking a certain action.

Most documents tend to answer some question, at least implicitly. A settlement proposal answers the implicit question of why the agreement would be a fair deal for both parties; a motion, on the other hand, answers the direct question of why a judge should rule in your client's favor.

2. What is my answer?

No matter how hard you thought in advance about the reasons for writing a document and what questions a document should answer, the document, no matter how well written, does not achieve its purpose if you fail to actually provide the answer.

Doing a wine tasting at a Virginia winery answers the question of why you should buy the wine: if you like the wine, you will buy a bottle. If a document seeks to answer a question, even implicitly, an answer is expected. Make sure that the document does, in fact, answer the questions it intends to; if it does not, then the reader will not "buy" into the document, and its purpose will not be achieved.

Consider this scenario: you receive a motion filed by opposing counsel. Although the substance of the motion is sound, the document contains poor grammar and numerous proofreading errors. More than likely, this document does not fulfill its purpose, as the writer has lost all credibility with the reader as an effective legal writer (and perhaps lawyer in general). If a lawyer takes shortcuts or produces sloppy work, then he might never achieve his purpose. ■

Just to be clear, I meant in this column to give you some pointers about effective legal writing. It was intentional, and I did it "on purpose." Questions, comments, and suggestions (as long as they fulfill a complimentary goal) are welcome at dspratt@wcl.american.edu.

culture of inclusion

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meaning comments or other harassment. Only 2 to 4 percent of white men reported these same experiences. This may explain why women of color have a nearly total attrition rate from law firms at the end of eight years. Adrienne has defied that statistic, serving as partner in the D.C. office of her firm and as president of the national Energy Bar Association. But her success does not shield her from demeaning comments. Immediately after her appointment as EBA president, an acquaintance pulled her aside and asked if she thought she'd gotten the position because she was black. And, like Sheri, she has encountered awkward situations even within her well-meaning workplace. Adrienne suggested encouraging involvement in affinity groups, providing flexibility without attaching any stigma to pregnancy leave or other accommodations, and making inclusion part of the criteria for evaluating management's performance.

Remember to use the buddy system

I was asked to provide a gender perspective for the panel, and the best personal illustration I came across was

my high school graduation picture. It featured a solid mass of young men in blue blazers arranged on the steps of the headmaster's house. On the bottom row were two young women in long white dresses. My twin sister and I were the lone female graduates

in our senior class. The teachers did everything they could to make sure the focus stayed on our abilities, not our gender. When things got rough, I commiserated with my sister and the small band of day students — my "affinity group." Being female never resulted in our being held to lower expectations. If we wanted to run

cross country, we had to run the same distance as the boys. Success in the legal profession for me followed the same track. Still, within a week of my writing this article, well-meaning colleagues twice mistook me for their secretary. I'd like to get to the point that when I'm called by the wrong name, there are so many female attorneys that the name used belongs to the managing partner or the head of the executive committee or even another lawyer in my department. That's when I'll know inclusion is sustainable and truly embedded in the culture of the firm. ■

“ a genuinely inclusive practice could make the workplace a better place for people of every type. ”

Cliona Mary Robb, LEED® AP, is chair of Christian & Barton, LLP's Sustainability: Energy and Green Development practice group, and is a member of the Energy and Telecommunications groups. She joined the VBA in 1992 and also serves on the VBA Administrative Law Section Council. Robb earned an undergraduate degree at Princeton University, and a master's and J.D. at Duke University.