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**T**he responsibility for finalizing a brief or a memorandum of law is often delegated to a junior attorney. Generally, this will require her to utilize skills developed as a first-year law student, such as Bluebooking, cite checking and Shepardizing legal authority.

Regardless of whether or not these tasks are challenging, it is paramount that they be accurately performed. A properly finalized brief will allow the court to quickly review and analyze the precise legal authorities relied upon. On the other hand, citation mistakes damage counsel's credibility and at the outset can weaken the court's faith in the arguments presented.

Similarly, a carefully formatted and thoroughly proofread brief conveys a first impression of professionalism and competence, whereas a sloppy submission screams out for more careful scrutiny by the court.

Given the consequences that flow from both properly and improperly finalized briefs, be sure to consider the complete list of tasks required to finalize a brief, and to budget sufficient time to properly perform them.

Junior attorneys are often responsible for Bluebooking briefs. Proper Bluebook form insures that the court can readily locate the legal authority cited therein. This includes providing jump cites (or pin cites) to the precise portion of the authority you want the court to review and rely on when making its decision.

Failure to include jump cites, or worse yet, the inclusion of incorrect jump cites, may cause the court to disregard legal authority that is essential to your client's position. Remember, sloppy presentation of authorities reflects poorly on counsel and will likely leave a negative impression on the court, your adversary and your client.

And it is essential to Shepardize all legal authorities cited in briefs. When performing that task, do not fall into the trap of simply running a database search, skimming the results and removing any decision that has been reversed, questioned or criticized. Instead, analyze any negative database results to determine whether the subsequent case developments (i.e., reversal, criticism) relate and undermine the precise legal principle previously established by the case cited

### Career Development

## FINALIZING A BRIEF OR MEMO OF LAW



in the brief. The database simply cannot make that determination.

As a result, carefully analyze the negative search results to determine whether there has been a subsequent change or clarification of law that requires substantive changes to the brief. Be careful when considering these issues; it is beyond embarrassing to have your adversary inform the court that a legal principle you relied on is no longer good law.

Quote-checking is another task that needs to be performed when finalizing a brief. While this may be easy, it is time consuming, so remember to plan ahead to allow sufficient time to confirm the accuracy of all quotations. Here too, counsel's credibility can be damaged if a key aspect of a court's decision, or an important statutory requirement, is misquoted or omitted. To avoid the unintentional perception that counsel's brief is deceptive, be mindful to use appropriate signals to indicate omissions, paraphrasing and the like in any quotations.

References in the brief to affidavits and affirmations should be double-checked to insure the cites are to the correct paragraph or exhibit, and where appropriate, should contain a pin cite to the relevant portion of the exhibit. For example, if the brief refers to a single provision in a 40-page contract, a pin cite in the brief should direct the court to the precise page in the exhibit where the relevant provision can be found. Also, be sure to confirm that terms are defined consistently in both the evidentiary documents and the brief to insure a cohesive presentation.

It is important to review local rules and

practices to insure a brief is properly formatted. This includes, but is not limited to, rules and practices regarding page limitations, margins, binding, whether the papers must be signed by counsel, methods of service, whether legal backs are required, whether to file the original and electronic filing requirements. Determine the appropriate requirements well in advance of the service deadline. Above all, do not find yourself in a situation where your papers are rejected by the court because you do not satisfy local requirements.

Often, you will need to add a conclusion to the brief. It is appropriate, and indeed helpful, for the conclusion to contain a clear statement of the relief requested by your client. If you represent the movant, the conclusion should indicate that your client respectfully requests that the court grant the motion and should state the precise relief sought (i.e., grant the motion and award summary judgment to the plaintiff). An opposition memorandum should contain a similar direction (i.e., deny plaintiff's motion for summary judgment).

Inclusion of a table of contents and table of authorities is often required, and if not required, is desirable. Here, too, it is important the information presented in these tables is accurate. A court looking to find a frequent-cited case will often turn to the table of authorities to get the citation. If the table of authorities mis-cites the case, the court simply will not find it. Also, remember that these tables refer to the page numbers in the brief where authorities or arguments are found. For that reason, the tables cannot be finalized until the pagination of the brief has been firmly established. Thus, sufficient time must be allowed after completion of the briefs to finish the tables.

To be sure, the work required to finalize a brief is far from glorious—and can be mundane. However, these tasks play an undeniably important role in the overall quality and success of the brief. Missteps stand out like a sore thumb. Fortunately, most junior lawyers are well equipped to perform these tasks at a high level. Because they require a fair amount of time and finalizing a brief is often on tight deadline, plan ahead to insure success.

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