

FROM MODULE PROPERTIES

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### Confidentiality

CLIENT agrees to keep confidential and not to disclose to third parties any information provided by COMPANY pursuant to or learned by CLIENT during the course of this Agreement unless CLIENT has received the prior written consent of COMPANY to make such disclosure. This provision shall survive expiration and termination of this Agreement. This obligation of confidentiality does not extend to any information that: 1) Was in the possession of CLIENT at the time of disclosure by COMPANY, directly or indirectly; 2) Is or shall become, through no fault of CLIENT, available to the general public; or 3) Is independently developed and hereafter supplied to CLIENT by a third party without restriction or disclosure.

### Introduction

#### I. INTRODUCTION

The ability to write a clear and persuasive brief is one of the most important weapons in a lawyer's armory; this is especially true for appellate practitioners. Although oral advocacy skills are important, a litigant's briefs are reviewed long before oral argument, when judicial law clerks are drafting their bench memoranda and judges are deciding how to approach oral argument and decide a case. Briefs are often reviewed a second (or third, fourth, or fifth) time after oral argument-when judges and their clerks are crafting the court's decision and revisiting the issues that the court must decide. For these reasons, a clear and persuasive brief often has a greater impact than even the most inspired oral argument. Moreover, it is becoming increasingly common for courts to decide cases without oral argument. In those instances, a compelling brief is critical to a litigant's success, and the only way to make an impact on the court.

The ability to write and recognize a persuasive brief is important to lawyers throughout their careers. Junior attorneys are often responsible for initially writing a brief. Senior attorneys often review those briefs \*418 and either rewrite or edit them (as circumstances require). In-house counsel may then review the briefs once more, providing additional edits and comments and addressing concerns. Wherever you happen to be in your career, it is important to know how to write, rewrite, edit, recognize, and review an effective brief. This Article offers a number of guidelines for crafting such briefs and provides a number of practical pointers to help lawyers along the way from writing through final review.

More specifically, this Article offers seven general guidelines for writing persuasive briefs. Those guidelines, each of which is discussed in Part II, are as follows: (1) begin your brief with a compelling recitation of the relevant facts; (2) acknowledge the applicable legal standard and use it to your benefit; (3) carefully pick your strongest arguments; (4) present your arguments logically; (5) present your arguments simply and concisely; (6) be accurate, fair, and even-handed; and (7) follow the court's rules and sweat the details. Finally, although the discussion of these guidelines is focused primarily on appellate briefs, it is important to note that almost everything we write here applies equally to trial court briefing. After all, a good brief is a good brief.

### Invalid Provisions

If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any present or future law, then that provision will be fully severable. This Agreement will be construed and enforced as if the illegal, invalid, or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid, or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of each such illegal, invalid, or unenforceable provision, there will be added automatically, as a part of this Agreement, a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid and enforceable.

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### Termination Letter

Dear

Further to our meeting of (date) I (regretfully) confirm that your employment with us is terminated with effect from (date)/with

immediate effect.

As stated at our meeting the reason(s) for terminating your employment with us/are as follows:

- (Employer must clearly state reasons - transgressions and relevant policies if applicable)
- (Employer must clearly state previous warnings, informal, formal, written etc., and circumstances and person's response and subsequent behaviour/performance for each warning.)

(Clearly state requirements regarding return of documentation, equipment, car, submission of final expenses claims, and any other leaving administration issues.)

(Clearly state actual leaving date, requirement or otherwise to serve period of notice, holiday pay, and other pay and pension details.)

(Clearly state the position regarding the employee's right of appeal, and state the appeal process and timescales.)

(Optional sign-off, for example: Thank you for your past efforts and all the best for your future endeavours.)

Yours, etc.

name and position

(Optionally and recommended: attach, at the foot of the letter refer to, **a copy of your written disciplinary process**, and also attach and refer to **copies of written/printed evidence gathered during the employee's case**. This enables employees to understand clearly the case against them, and also the process and their rights during the disciplinary process, which are central to the principles of the employment dispute regulations.)

(Optional section at foot of letter, requiring person to sign, confirming receipt of the letter and any attachment(s), by way of returning a signed copy of this letter.)

## Harassment

Harassment of any kind will not be tolerated on this project or on the COMPANY campus. Contractors and their employees are expected to comply with the COMPANY policy prohibiting harassment and intimidation:

"The COMPANY prohibits sexual or any other kind of harassment or intimidation, whether committed by or against a student, faculty member, supervisor, co-worker, vendor or visitor. Harassment has no place in our community, whether based on a person's race, sex, color, creed, religion, national/ethnic origin, age, handicap, sexual orientation or disabled veteran/Vietnam-era veteran status."

Contractors and their employees shall also comply with the COMPANY's Sexual Harassment policy which prohibits sexual harassment. A copy of the policy is available from Facilities Management [Comment: Name appropriate for your school] or on the web at: [Comment: Set link for your school]

Inappropriate actions or noises either on the construction site or in the surrounding area may be viewed as harassing behavior. Contractors shall instruct their employees to limit their contact with COMPANY personnel staff or students to professionally necessary interactions. Any occurrence of harassment will be cause for immediate termination and possibly removal of subcontractor from the site. The Contractor will strictly enforce these anti-harassment policies.



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## Indemnification

To the fullest extent permitted by Law, the (named party) will defend, indemnify and hold harmless [Institution], including its current and former trustees, officers, directors, employees, volunteer workers, agents, assigns and students from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of, or from the performance of its operations or services and for the acts or omissions of its directors, officers, employees, contractors or subcontractors, volunteers, participants, guests or any third party for whom it is responsible, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist in the absence of this agreement.

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