

Attention to Work Product: Errors and Edits—Part II

by Tanya B. Bartholomew

In the January 2008 Scrivener column,¹ I discussed several egregious examples of poor written work product and explained how courts have responded to that work product. When faced with errors such as frequent typos, outdated research, and improper attributions, some judges are charging attorneys with ethical violations, imposing fee reductions, and employing open criticism to prod attorneys to carefully review their written documents.

In this column, I outline a step-by-step system for editing written work. This system is premised on the idea that editing is a distinct part of the writing process. Editing must be approached as an essential part of document preparation, as important as any other part of the writing process.

Before You Edit

Every written document—including discovery documents, letters, and trial and appellate briefs—requires a thorough, systematic edit. However, before beginning the formal editing process, writers should perform several rudimentary but important steps.

The first step is to establish a time for editing that is reasonable to the length of the document. A good rule of thumb is to schedule seven to ten minutes per page, depending on your writing skills and the type of document. Put the time into your schedule. If possible, wait a day or two before starting to edit. This will give you a fresh perspective when you review the document.

Make sure you have all the necessary materials. A thorough edit will require the use of a dictionary, a ruler, a brightly colored pen, a *Blue Book*,² and a writing text.³

True editing begins—not ends—after eliminating obvious spelling and grammatical errors from your document. Accordingly, run both a spell-check and a grammar-check on your document before you begin your formal edit. Using the “find” and “replace” function on your computer, search the document for any spelling errors you typically make. Common mistakes include “trail” for “trial,” “Untied” for “United,” “statue” for “statute,” and “form” for “from.” Avoid a blanket find and replace; you don’t want to inadvertently switch any correct instances of the original word.

Next, print the document using a fourteen-point font. Larger fonts are easier to read; accordingly, you are more likely to catch er-

rors. On-screen edits are significantly less effective and should be categorically avoided.

Editing Your Document

A good way to ensure you are performing a complete and thorough edit of your document is to use the three-step editing process outlined below:

- Step 1: Review the document for substantive accuracy.
- Step 2: Review the document for issues involving sentence structure, transitions, grammar, and punctuation.
- Step 3: Check your citations for accuracy and form.

By editing in this order, you can eliminate any grammatical mistakes, typos, and citation errors that you may have created when making substantive edits.

Using an Editing Checklist

An editing checklist isn’t a typical or necessarily convenient format for an article. However, because I intend for this checklist to be used literally as a checklist, with one item after another being checked off as it is completed, function over form prevails. As you work through each step in the editing process, refer to the checklist below to eliminate errors that all too often plague legal documents. Be aware that no checklist is exhaustive, and refer to your writing text and citation guide frequently for additional guidance.

Step 1: Review for substantive accuracy.

A. Statement of Facts

- Provides a chronological account
- Is accurate; avoids exaggeration, misrepresentation, and assumptions

B. Discussion

1. Overview paragraph:

- Concisely states the general legal principles governing the problem
- Provides a roadmap of the discussion section

2. Thesis sentence or paragraph:

- Precedes each subsection that provides separate rules of law
- Identifies the issue addressed in that subsection

Do you have questions about legal writing?

K.K. DuVivier will be happy to address them through the Scrivener column. Send your questions to: kkduvivier@law.du.edu or call her at (303) 871-6281.

Associate Professor K.K. DuVivier is on sabbatical during 2007–08. She has been writing this column continually since 1991 and will resume doing so in fall 2008. In her absence, Robert S. Anderson and Tanya B. Bartholomew will be writing the Scrivener articles.

About the Author

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3. Rule explanation(s):

- Begins with a strong topic sentence introducing exactly what the paragraph addresses
- Accurately and clearly presents the synthesized rule for that particular factor—may include several cases and facts from cases
- Accurately states the law
- Does not refer to your client’s case

4. Rule application(s):

- Begins with a strong topic sentence introducing exactly what the paragraph addresses
- Presents all the applicable legally significant facts
- Does not introduce material from cases
- Refers to precedent by name and indicates whether the facts are analogous or distinguishable
- Repeats key words from the precedent in the context of the client’s facts

Step 2: Review for sentence structure, transitions, grammar, and punctuation issues.

A. Sentence Structure

- Sentences begin with a concrete, material subject (if the name of a case is not the key point in a sentence, avoid putting it first)
- The bulk of the document comprises plain language and short sentences
- Every sentence has a subject and a verb (do not use sentence fragments)
- In general, sentences do not start with a form of the verb “to be” (beginning with “There are,” “It is,” or other forms of the verb “to be” weakens the sentence)

- The subject is located near its corresponding verb in any given sentence
- Sentences have subject-verb agreement

B. Transitions

- Transitions explain the relationship between two cases, two facts, or two ideas (use transitions to link two sentences rather than two paragraphs—see the “Transitions” sidebar for some helpful transitional words and phrases)

C. Grammar and Punctuation

- Pronouns and antecedents agree—e.g., *Parents* are not liable for the torts of *their* children (using a plural, even if you are attempting to avoid gender-specific terms, is acceptable only if the antecedent is plural)
- Possessives are used correctly (avoid *its*—it is not a possessive)
- Commas are used appropriately and are not overused (always use commas between items in a series)
- Quotation marks are placed properly in relation to other punctuation marks (most end punctuation goes inside the quotation marks)
- Semi-colons are used in the following instances only: (1) to separate independent clauses not joined by a coordinating conjunction; and (2) to separate items in a series if the series is long or has internal commas
- Colons are used to introduce lists, to introduce quotations, and to set up additional material

Step 3: Check citations.

A. Case Citations

- Citations are in the format prescribed for court documents⁴
- Both the initial page number and the pinpoint or jump cite appear in the full citation (pinpoint or jump cites are required in all subsequent cites)⁵
- Page references are accurate

B. Statute Citations

- Citations are in the format prescribed for court documents⁶
- The year of the statute is accurate

C. Other Citations

- Citations are in the format prescribed for court documents⁷
- All material appears on the cited page(s)

Transitions¹	
Use the transitions below to strengthen connections between ideas.	
To add a new point	moreover, next, also, in addition, in fact, finally, further, furthermore, next
To indicate a difference	conversely, however, alternatively, but, contrary to, in contrast, on the other hand, rather than
To indicate a similarity	similarly, likewise, also, as, like
To illustrate or explain an idea	to illustrate, for example, after all, as an example, for instance, in fact, in particular, in other words, simply put, specifically
To conclude	as a result, consequently, accordingly, in summary, therefore, thus
<p>1. The transitions in this sidebar are from Enquist and Oates, <i>Just Writing: Grammar, Punctuation, and Style for the Legal Writer</i> 56-57 (Aspen Publishers, 2005).</p>	

More Editing Tips

At times, you may find it helpful to read your work product out loud as you edit. Although you may not be able to define a vague antecedent, you’ll often know it when you hear it.

A second, more critical tip is to know your own writing. If you don’t, ask someone whose writing you admire to read your writing and give feedback. Take notes; do you write in passive voice, do you forget series commas, or are you a poor speller? Add any writing issues you have to your list of things to specifically look for as you work through your editing checklist.

Conclusion

Editing is a discipline; it is a concrete, separate, and requisite part of written document preparation. By actively engaging in the editing process, your final review will not only enhance the substance of your document, but it also will rid the document of technical

problems. A written document is complete only after it has been reviewed for substance, style, grammar, punctuation, and citation. Remember, reading through a document on-screen thirty minutes before printing or e-filing is *not* editing!

Notes

1. Bartholomew, “Attention to Work Product: Errors and Edits—Part I,” 37 *The Colorado Lawyer* 49 (Jan. 2008).

2. *The Bluebook: A Uniform System of Citation* (18th ed., Harvard Law Review Ass’n, 2005).

3. See, e.g., Enquist and Oates, *Just Writing: Grammar, Punctuation, and Style for the Legal Writer* (Aspen Publishers, 2005). To order this or any Aspen Publishers title, visit www.aspenpublishers.com or call (800) 638-8437.

4. See *Bluebook*, *supra* note 2 at 3-43.

5. *Id.*

6. *Id.*

7. *Id.* ■