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Breaking News: Drafting Client Alerts to Prepare for Practice

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Extra, extra—read all about it! Incorporating a client alert drafting exercise into the first-year legal writing curriculum readies students for the pace and complexity of practice!

While client alerts fulfill an important business development function for employers, they also can be used for pedagogical purposes: summarizing the law, predicting its implications, managing time pressure, striking a proper tone, conforming to real-world expectations, and conveying a sense of professionalism.

I. Hallmarks of Client Alerts

Let's start with the basics. Client alerts, at their core, are a low-cost marketing tool. They are short news bulletins that inform clients (and the general public, when posted on firm blogs) about recent developments in the law; they should contain “hard facts” as well as an analysis of how those facts affect clients' businesses.¹ Given the short shelf life of the news as well as the competition to be the first to file, client alerts must be issued before they get stale. Also, the ability to crank out client alerts while the news is still urgent and actionable “sends a message that client service matters.”²

¹ See, e.g., Ami Zweig, *New #MeToo and Pay Equity Laws Expand Protections Against Harassment and Discrimination in New York State* (July 2019), available at <https://www.weil.com/~media/publications/alerts/2019/employer-update--july-2019.pdf> (updating clients on the new requirements imposed by revisions to New York's employment discrimination and harassment laws and suggesting that employers revisit their policies to ensure compliance); Terri Seligman, Rayna Lopyan & Kelly O'Donnell, *It's Blowing Up: Lessons from Two Recent Social Media Promotions* (May 10, 2019), available at https://fkks.com/news/static_print/its-blowing-up-lessons-from-two-recent-social-media-promotions (recommending that companies adopt structuring and advertising guidelines for their social media promotions in the wake of Sunny Co Clothing's failure to cap and clarify the terms of its swimsuit giveaway).

² Susan Beck & Aric Press, *Why Your Client Alerts Fail; Three Ways to Fix Them*, BLOOMBERG L., <https://news.bloomberglaw.com/us-law-week/insight-why-your-client-alerts-fail-three-ways-to-fix-them> (Dec. 3, 2018).

In terms of a taxonomy, client alerts are brief (usually fewer than 1,000 words), feature short paragraphs, and often rely on visual setoffs like bulleted or numbered lists.³ Compelling headlines command the reader's attention.⁴ Topics are clear, crisp, and uncluttered. The tone is confident to convey mastery, yet approachable given the informal medium. Grammar and punctuation are impeccable. They're the client advice letter for the internet age.

II. Why Client Alerts?

Exposing students to the genre of client alerts can reinforce and build on many of the lessons students learn in “traditional legal writing”—being concise, using headings for visual accessibility, cutting jargon.⁵ What's more, client alerts can serve as great models for how to take a complicated question, boil it down, and sum it up.⁶ From an organizational standpoint, students can draw from the useful and familiar paradigms of IREAC and CREAC by setting up an issue, giving the relevant

³ *Supra* note 1.

⁴ See, e.g., Clarence M. Belnavis, *Just (Don't) Do It: Oregon Supreme Court Warns Against Cat's Paw Retaliation* (July 24, 2019), available at <https://www.fisherphillips.com/resources/alerts-just-dont-do-it-oregon-supreme-court> (engaging in wordplay by using Nike's slogan to describe a whistleblower retaliation suit against the company); David C. Fischer & Norwood P. Beveridge, Jr., *An ICO Means Never Having to Say You're Sorry* (Nov. 2018), available at <https://www.loeb.com/en/insights/publications/2018/11/an-ico-means-never-having-to-say-youre-sorry> (recounting the SEC's decision to use a “light touch” in settling two initial coin offerings); Nicole Hyland, Ronald Minkoff & Tyler Maulsby, *Bits or Mortar: Will New York Continue to Require Non-Resident Lawyers to Have Physical Offices?* (Apr. 9, 2015), available at <https://fkks.com/news/bits-or-mortar-will-new-york-continue-to-require-non-resident-lawyers-to-ha> (punning in an alert addressing whether a nonresident can work virtually or needs to maintain a physical office in New York).

⁵ See Jennifer M. Romig, *Legal Blogging & the Rhetorical Genre of Public Legal Writing*, 12 LEGAL COMM. & RHETORIC: JALWD 29, 35 (Fall 2015) (noting that some of the features of good public legal writing overlap with those of good traditional legal writing).

⁶ See Ted Becker, *Transactional Drafting: Using Law Firm Marketing Materials as a Research Resource for Teaching Drafting*, 15 TRANSACTIONS: TENN. J. BUS. L. 149, 159 (Fall 2013) (proposing using client alerts to provide students with free, practical advice on cutting-edge topics).

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legal and factual background, discussing the implications, and offering recommendations. But they do so with a journalistic twist: what happened or what changed? How does that affect the client’s business? What should the client do about it?

Because it is typically non-billable work, client alerts often become the province of junior lawyers or summer associates. And because time is money in the legal industry, it is essential to train students to prepare accurate and succinct analyses in short order so that they are poised to tackle the challenges of practice.

The process of crafting client alerts forces students to compress the analytical and writing processes. Because readers can freely click away if they feel a twinge of boredom, students should start vividly to grab—and hold—the reader’s attention.⁷ Besides considering their varied audiences’ (likely short) attention spans, students should cater to the reader’s viewing preferences and organize client alerts accordingly because most emails are now opened and read on mobile devices.⁸ So students need to condense legal rules and refinements into concise, coherent prose because we live in a world conditioned to bite-sized content and tweet-length missives.

Client alerts also can provide useful examples of professionalism. If well done, client alerts tell clients what they need to know and what they should do in the face of change. Yet alerts tend to be cautious, avoiding hyperbole and highlighting what remains unresolved. This is how careful lawyers should assess the impact of a new law and advise clients.⁹

Strong client alerts display business acumen as well as legal expertise. So, having students draft client alerts necessitates adopting a client-centered lawyering approach to show an understanding of clients’ businesses, industries, and competitive landscape.¹⁰

III. Parameters of the Exercise

Given their utility and ubiquity, I have designed an in-class client alert drafting exercise for the first-year writing class at Brooklyn Law School (BLS). As of this year, BLS’s spring semester Gateway to Lawyering curriculum will center on developing students’ statutory reading and interpretation skills. The goal is to acquaint students with how statutes are organized and constructed as a whole, and how statutory provisions function within a broader framework.

After the students learn the fundamentals of parsing statutory language, I’ll roll out the client alert exercise, which will ask students to examine the interplay of concurrent workplace lactation accommodation statutes at the federal, state, and local levels.¹¹ The students will have to describe how New York Labor Law Section 206-c and New York City’s Administrative Code Sections 8-102 and 8-107(22) layer onto The Reasonable Break Time for Working Mothers Amendment to the Fair Labor Standards Act, 29 U.S.C. § 207(r). These laws strive to reduce stigma, support female employees, and normalize pumping at work. Besides outlining the statutory requirements cogently, students will need to consider the consequences of the statutes for various types of clients. To familiarize the students with the genre, I’ll distribute several examples of well-written client alerts.¹² And to simulate practice conditions, I’ll have the students get cracking during the first half of our two-hour class session.

For the rest of class, the students will peer review their classmates’ papers to assess whether their classmates achieved the aims of a client alert, and we will debrief their writing process.¹³ My hope is that the exercise promotes good time management habits, compels the students to adapt their writing to the needs of their audience, and introduces them to a type of writing they’ll likely encounter in practice.

⁷ Romig, *supra* note 5, at 60.

⁸ Robert Thomas & Jayne Navarre, *How to Produce Effective Client Alerts & Newsletters*, May 24, 2017, <https://www.slideshare.net/jaynenavarre/how-law-firms-can-produce-more-effective-newsletters>.

⁹ Becker, *supra* note 6.

¹⁰ Depending on time constraints, the subject of client alerts also provides an opportunity for willing alumni practitioners to visit the classroom to discuss their role in business development. Students always enjoy tangible connections to practice, and these interactions can create a synergy between the legal writing faculty and the school’s development office.

¹¹ See Appendix A for sample instructions for a client alert in-class exercise.

¹² *Supra* nn.1, 3 & 4 (providing examples of real-life client alerts).

¹³ A sample peer-review worksheet is included in Appendix B.

IV. Takeaways

The benefits of incorporating client alerts into the legal writing classroom are multifold. By having students practice generating client alerts before they're on the job, we're equipping them to succeed when they're given this type of short-form, public legal writing assignment. Students, too, will become

more mindful of their tone and audience. And they'll grapple with the all-important skill of distilling complex analyses into accessible language that informs without shortchanging or overloading.

You heard it here first.

Appendix A

Sample Client Alert In-Class Exercise Instructions

You'll have roughly forty minutes to synthesize the attached statutes into a coherent, pithy client alert informing your New York–based clients of their legal obligations to provide lactation accommodations to working mothers. In your drafting, aim to exemplify the tenets of strong client alerts we discussed earlier. You also may consult the sample alerts I distributed and the peer review form to help guide your writing.

Once you are finished, please proofread your work carefully. You will then share your client alert with a partner, and you will use the peer review form to critique each other's papers. Toward the end of class, we will come together to discuss your writing process, any challenges you faced, and the lessons you learned.

Appendix B

Sample In-Class Client Alert Peer Review Form

Reviewer: _____ Author: _____

Complete each section using as much specific detail as possible. Please answer every question.

Overall Impression

1. What is your overall impression of the client alert? Is it neat, professional, and informative? Does the presentation inspire confidence in the author's underlying analysis? Why or why not?

Content

2. Does the client alert integrate and condense the statutory language into clear rules and refinements? Identify and explain any gaps.
3. Does the client alert accurately reflect the statutory provisions? Why or why not?
4. Does the client alert follow a logical progression (What is happening? Why should I care? What should I do about it)? Why or why not?
5. Does the client alert provide concrete advice? Does it flag areas that remain unresolved?
6. Does the client alert describe the business as well as legal implications for the client?

Structure

7. Does the client alert use compelling and attention-grabbing titles, headings, and topic sentences? Identify any that are particularly strong and any that could be improved.
8. Does the client alert consist of short paragraphs, each narrowly focused on one topic?
9. Does the client alert use bulleted or numbered lists, as appropriate, to convey information? If not, note any spots where a visually set-off list would enhance the alert.

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Tone

10. Is the client alert succinct, free from jargon, and understandable to a lay audience?
Identify any phrases that could be revised to be more conversational.

11. Is the tone cautious, yet authoritative?

Polishing/Formatting

12. Does the client alert look like law firm–quality work? Does it
have any grammatical or punctuation errors?

13. Is the client alert formatted so that it is easily viewable on a smartphone or other mobile device?

14. Does the client alert end by providing the author's contact information?