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Going to the Experts to Move Students from Skeptics to Believers

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Laura Reilly, *Going to the Experts to Move Students from Skeptics to Believers*, Law Teacher, Fall 2012, at 10.



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Going to the Experts to Move Students from Skeptics to Believers

By Laura Reilly, SUNY Buffalo

At some point, most students become skeptical about whether their research and writing professors are “really” teaching them skills used in the world outside law school walls. My students were beginning their second semester, when I teach persuasive writing. I continued my mantras to write clearly, simply, and concisely, just as the students wrote for objective writing. Hard-fought summer opportunities were quickly approaching and my honeymoon period of sheepish agreement from the students was over. I sensed my students were wondering how the “Reilly way” of writing would translate in

the real world. How would their acceptance of my writing requirements help them succeed in their jobs they fought so hard to secure?

Sure enough, students would write to me throughout the summer after the year they had research and writing that yes, indeed, they were incorporating what they learned in my class into their jobs. Many students expressed genuine shock that their bosses praised their work when they followed my advice, handouts, and templates.

I decided to solicit expert advice to assure my students that what I was teaching was what practicing attorneys and judges in the real world expect. Over a period of five years, I wrote to United States Supreme Court justices, judges on the Second Circuit Court of Appeals, New York Court of Appeals judges, and New York Appellate Division judges. Over the years, response from the judiciary has been overwhelming. Among others, I received responses

from Supreme Court Chief Justices Rehnquist and Roberts, and Associate Justices Ginsburg, Breyer, Scalia, Alito, and Souter; New York Court of Appeals Chief Judge Kaye and Associate Judges Graffeo, Pigott; and Second Circuit Chief Judge Dennis Jacobs. (See samples on page 11.)

I asked the judges, as expert readers of briefs, what is the one best attribute of a brief? Not surprisingly, the responses were consistent. The most common responses to my question were: the lawyer must know what point she is trying to make; write clearly; write concisely; present her argument

simply; recognize and focus only on the strongest points; and be scrupulously honest with her audience. These responses successfully supported my teaching.

My personal favorite piece of advice came from Judge Richard Wesley of the Second Circuit. Judge Wesley’s advice was that lawyers should always try to be good teachers. “Strive to teach and success will be yours.” Judge Wesley eloquently, authoritatively, and expertly explained a judge’s perspective of a brief—something I can only strive to do in my classroom.

Every year, I distribute the judges’ responses to my classes during the first week of second semester. After having some fun looking at how the judges write personal correspondence (so much easier to read than their opinions!) and

analyzing their signatures, the students are genuinely thrilled to discover that their burgeoning writing habits will, indeed, be appreciated—even expected—in the real world.

There are a few take-aways from providing the judge responses to students—some that I had not expected. First, students crave reassurance the skills they learn in research and writing are the same skills they will need to use outside of law school. By bringing in expert opinions to concretely show “my” rules are the same as those used by practitioners, I am able to sway my skeptics into believers. Second, once I

can show the students my core rules are the same as those expected and appreciated in the outside world, the students more readily accept the new rules I introduce. Third, my correspondence with the judiciary has allowed me to teach my students to never

be afraid to ask anyone about anything. Many of my students come to law school straight from college and would never think to ask an authority figure a question. The bonus of talking through the judges’ responses with students has been the opportunity to discuss the idea of “nothing to lose, everything to gain” by going straight to the top of any organization to ask questions and obtain information.

(See letters from the judiciary on page 11.)

Laura Reilly is a member of the Legal Analysis, Writing, and Research faculty at SUNY Buffalo.

“Many students expressed genuine shock that their bosses praised their work when they followed my advice, handouts, and templates.”

– continued from page 10

Laura Reilly

From: <Richard_Wesley@ca2.uscourts.gov>
To: <reilly@buffalo.edu>
Sent: Wednesday, May 27, 2009 11:28 AM
Subject: One Piece of Advice

Dear Professor Reilly,

I apologize for the lateness of my reply to your letter of May 5th. My one piece of advice is that lawyers should always try to be good teachers. A good brief teaches the reader about the controversy-- it has an easy to follow description of the facts--and then gives the reader a blueprint of how the case should be resolved in the context of the particular facts at hand and the over arching legal principles for the area of the law that is in play. Too often lawyers develop myopia with regard to their case--they want to show they understand each and every minute aspect of the matter. They forget that the judges who will read the briefs have not lived with the case as long as the lawyers. In addition the judges may not be as familiar the legal issues involved-- Cardozo once said that the New York Court of Appeals was a bunch of "wretched generalists." Strive to teach and success will follow. Hope this helps.

Richard C. Wesley

**Supreme Court of the United States
Washington, D. C. 20543**

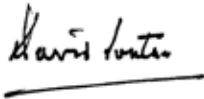
CHAMBERS OF
JUSTICE DAVID H. SOUTER

September 29, 2004

Dear Ms. Reilly:

I'm not sure that I could isolate one "most important characteristic" of good appellate argument. There are a number of very important characteristics, but if you force me to choose one, this is it: the lawyer has to know what point he's trying to make.

Yours sincerely,



Ms. Laura Reilly
University at Buffalo Law School
John Lord O'Brian Hall
Buffalo, New York 14260



Henry J. Scudder
Presiding Justice

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May 29, 2009

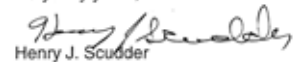
University at Buffalo Law School
John Lord O'Brian Hall
Buffalo, NY 14260-1100

Attention: Laura Reilly

Dear Ms. Reilly:

Thank you for your letter dated May 5, 2009 requesting one piece of advice to give your students regarding the most important characteristics of an appellant argument. I can answer your question in four words: be clear and concise. Of course, it goes without saying, that the issues must be well researched and that the attorney must understand the facts and law supporting his or her case, as well as that of the opposing party. However, if the facts and law are not presented in a clear and concise manner in order for the Court to understand the attorney's written and oral arguments, the client is not well served.

Very truly yours,


Henry J. Scudder

HJS/kah

**Supreme Court of the United States
Washington, D. C. 20543**

CHAMBERS OF
THE CHIEF JUSTICE

October 4, 2004

Laura Reilly
University at Buffalo Law School
The State University of New York
John Lord O'Brian Hall
Buffalo, New York 14260-1100

Dear Ms. Reilly,

I can think of no better advice to give to your students in the course on writing appellate briefs and argument to an appellate court than that given long ago by Justice Story of our Court: "In the law, the power of clear statement is everything."

