

DRAFTING A HIGH- QUALITY INVESTIGATIVE REPORT

...AND OTHER LEGAL WRITING TIPS

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BASIC PRINCIPLES OF GOOD WRITING

- Get the reader's attention
- Tell it like a story
- Make it easy to read and remember

GET THE READER'S ATTENTION

- WIIFM
- If your message gets across, what will the reader know, feel, and do?

OLPR & LPRB

- Is investigation complete?
 - Did complainant receive a copy of attorney's written response?
 - RLPR 6(d)
- Have all relevant Rules and issues been addressed?
- What still needs to be investigated or analyzed?

OLPR & LPRB

- Is conclusion well founded?
 - “De novo” review
 - Do facts and analysis support conclusions?
 - Is recommendation consistent?
- Is editing needed?
 - Professional presentation
 - Objective and respectful to complainant and respondent

ELEMENTS OF A DEC REPORT (MEMORANDUM)

- Summary of Complaint
- Factual findings
- Rule Analysis

SUMMARY OF COMPLAINT

Get the reader's attention

SUMMARY OF COMPLAINT

- From complainant's perspective
- Relationship between complainant, respondent, and other significant people
- Who, what, when, where, why, how

SUMMARY OF COMPLAINT FROM COMPLAINANT'S PERSPECTIVE

Complainant A alleges that respondent B **lied**
to the court when filing a request on her
client homeowners' behalf for eviction.

SUMMARY OF COMPLAINT FROM COMPLAINANT'S PERSPECTIVE

Complainant C alleges that respondent D assisted his clients in various bad conduct, including fraud, conversion, and breaches of contract and fiduciary duty.

SUMMARY OF COMPLAINT FROM COMPLAINANT'S PERSPECTIVE

Complainant E alleges that respondent F missed deadlines, failed to review the evidence before submitting the evidence to the court, and withdrew in the middle of the case.

SUMMARY OF COMPLAINT FROM COMPLAINANT'S PERSPECTIVE

Complainant G alleges he contacted respondent H because of an advertisement he saw in a prison newspaper. Complainant G wished to pursue a 42 U.S.C. § 1983 case.

SUMMARY OF COMPLAINT FROM COMPLAINANT'S PERSPECTIVE

Complainant alleges that respondent wrote back asking for complainant's medical records. Complainant claims he sent the medical records, but respondent never got back to him.

SUMMARY OF COMPLAINT FROM COMPLAINANT'S PERSPECTIVE

Complainant alleges that respondent's failure to communicate ultimately resulted in the potential claim being time-barred.

FACTUAL FINDINGS

Tell it like a story

FACTUAL FINDINGS

- From the factfinder's perspective (explain)
- Old information before new
- Causation (steady state, trouble, resolution)

FACTUAL FINDINGS FROM THE FACTFINDER'S PERSPECTIVE

Complainant says respondent told him his counterclaim had been filed with the court. **Respondent says** nothing was filed because complainant wanted more time to prepare his counterclaim. Because of this disagreement about legal strategy, **both parties agree** complainant asked respondent to withdraw.

FACTUAL FINDINGS FROM THE FACTFINDER'S PERSPECTIVE

Respondent **emailed** complainant attaching the evidence to be submitted with the counterclaim. Respondent then **filed** his notice of withdrawal and motion for a continuance and sent a copy to complainant. **The court permitted the withdrawal and denied the continuance.** The complainant later **filed** his own counterclaim.

FACTUAL FINDINGS FROM THE FACTFINDER'S PERSPECTIVE

While complainant expected respondent to file the counterclaim before withdrawing, respondent stated that he told complainant he could do so only if complainant provided additional information first. **Respondent's statement is consistent with previous emails** raising concerns about the viability of the counterclaim.

FACTUAL FINDINGS

OLD INFORMATION BEFORE NEW

- Dates, names, roles, details
- Sentence subjects and objects
- Sentence first and last words
- Words appear in several sentences

FACTUAL FINDINGS OLD INFORMATION BEFORE NEW

On September 1, 2016, complainant J and K.L. were divorced under a Stipulated Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment & Decree (J&D). In their J&D they agreed that K.L. would be awarded the marital homestead (Woodbury home) and was required to refinance the mortgage.

FACTUAL FINDINGS OLD INFORMATION BEFORE NEW

On September 1, 2016, complainant J and K.L. were divorced under a Stipulated Findings of Fact, Conclusions of Law, Order for Judgment, and Judgment & Decree (J&D). In their J&D they agreed that K.L. would be awarded the marital homestead (**Woodbury home**) and was required to refinance the **mortgage**.

FACTUAL FINDINGS

OLD INFORMATION BEFORE NEW

At the time of the divorce, **K.L.** was represented by respondent **M.** **K.L.** later remarried.

FACTUAL FINDINGS

STEADY STATE-TROUBLE-RESOLUTION

On June 1, 2020, K.L.'s **new husband** was charged with a crime and bail was set. The **new husband** obtained a bail bond written by respondent M. M notarized K.L.'s signature on a bail bond mortgage encumbering the Woodbury home.

FACTUAL FINDINGS

OLD INFORMATION BEFORE NEW

On June 1, 2020, K.L.'s new husband was charged with a crime and bail was set. The new husband obtained a bail bond written by respondent **M. M** notarized K.L.'s signature on a bail bond mortgage encumbering the Woodbury home.

FACTUAL FINDINGS OLD INFORMATION BEFORE NEW

On June 1, 2020, K.L.'s new husband was charged with a crime and **bail** was set. The new husband obtained a **bail bond** written by M. M notarized K.L.'s signature on a **bail bond mortgage** encumbering the **Woodbury home.**

RULE ANALYSIS

Make it easy to read and remember

RULE ANALYSIS

MAKE IT EASY TO READ AND REMEMBER

- Organization (rules and subparts)
- Navigation (headings, numbering, blank space)
- IRAC (introduction, rule, application, conclusion)

RULE ANALYSIS ORGANIZATION

Present the Rules in order, unless there's a good reason not to.

- Rule 1.4(a)(2), MRPC – Failure to Consult with Client
- Rule 1.4(a)(4), MRPC – Failure to Promptly Respond to Reasonable Requests for Information
- Rule 1.4(b), MRPC – Failure to Explain

RULE ANALYSIS NAVIGATION

Subheadings

Rule 3.3(a)(1), MRPC

Candor Toward the Tribunal

Rule 3.3(a)(1), MRPC: Candor Toward the Tribunal

No violation of Rule 3.3(a)(1), MRPC

RULE ANALYSIS

IRAC: INTRODUCTION

Complainant alleges that respondent withdrew in the middle of the case, making it difficult for complainant to file his counterclaim.

RULE ANALYSIS

IRAC: RULE

Rule 1.16(d) requires a lawyer who terminates representation to take “reasonably practicable” steps “to protect a client’s interests[.]”

RULE ANALYSIS

IRAC: APPLICATION

Respondent told complainant he would have to withdraw if complainant did not provide the information respondent needed to file the counterclaim. When no information was provided by the deadline, respondent filed his notice of withdrawal together with a motion for a continuance to protect complainant's interests and sent a copy to complainant the same day.

RULE ANALYSIS

IRAC: CONCLUSION

Although the continuance was not granted by the court, respondent took reasonably practicable steps to protect his client's interests upon withdrawal. There is no clear and convincing evidence of a violation of Rule 1.16(d), MRPC.

WRITING RESOURCES

- Richard Wydick, *Plain English for Lawyers*
- Ben Yagoda, *How to Not Write Bad*
- June Casagrande, *It Was the Best of Sentences, It Was the Worst of Sentences*
- James B. Stewart, *Follow the Story*
- Mignon Fogarty, *Grammar Girl's Quick & Dirty Tips for Better Writing*
- And many more!

THANK YOU!

