Virtually all law students write at least one legal research paper during their law school career, besides composing the usual array of briefs, memos, and legal instruments. In the experience of grading hundreds of legal research papers, I have accumulated an assortment of pet peeves and compiled a list of tips that other law teachers may find useful to share with their students at the outset of the writing endeavor. Most of these suggestions fall in the category of common sense, which is precisely why they need to be set forth explicitly. Here, I present my "top ten" list.

1. **Analyze and synthesize; don't just paraphrase.**

Don't thankfully latch onto one article directly on your topic, wish that you had written that very article, and then spend 25 pages just paraphrasing it, even with proper attribution (i.e., many footnotes, but most of them being "id"s). In real legal practice, you will rarely be lucky enough to find one unassailable authority that conclusively and unarguably resolves your issue.

If you can find incontrovertible authority on "all fours" with your case, by all means rely on it.

Most of the time, however, the law has to progress by analysis that synthesizes, mainly through analogy and distinction, different pieces of a puzzle. Research papers should reflect that complex process.

2. **Avoid sweeping generalizations unless you can back them up with authority.**

Legal writing involves argument and persuasion based on a reasoning process beginning with supportable premises, not the mere assertion of a proposition. Statements such as "Congress should repeal the ERISA preemption because all HMO executives care only about the bottom line" may be a hit on the political campaign trail but detract markedly from credibility in legal writing, unless supporting sources can be cited.

3. **Avoid the "obvious."**

Unless you are making a really unassailable proposition, such as "The earth revolves around the sun," using terms such as "obviously," "clearly," "of course," "unarguable," "simply," "certainly," and "well known" raise enormous red flags for the reader.

If you have authority for a proposition, cite it. If you don't have any authority, perhaps the proposition is not as "obvious" as you thought.

Besides, if your point is really that "obvious" to everyone, why waste time and space restating it? And, how can you be so sure that another lawyer won't come along and disagree with the proposition that you thought was so "clear"?
4. **Name one.**

Similarly, terms such as "many," "several," "numerous," "some," and "widely held" raise flags unless there is citation to examples. Think about how you would respond to a reader who sees such a term used, questions your accuracy, and demands, "Name one!" If you cannot, your bluff has been successfully called.

5. **Don't apologize for your positions.**

You rarely need to preface your statements with introductory quasi-apologies or such equivocations as "In my opinion," "I think," "I believe," or "I feel."

First, the reader of legal writing really doesn't care what the author "thinks," "believes," or "feels." In this genre, the only things that matter are what you can prove or logically support through reasoned analysis and argument.

Second, the reader automatically assumes that any proposition for which you do not cite authority must be your own opinion, so there is no need for the reminder. Just make your points and let them be evaluated for what they're worth.

6. **Any particular law in mind?**

Avoid making broad statements such as "doing X is illegal" unless you can explain which specific statute, regulation, or common law rule is being violated, and why. Be especially cautious about making the claim that "doing X is unconstitutional" unless you can back up that claim with one or more constitutional clause(s).

7. **Cite primary sources.**

In a legitimate legal discussion, even the least strict constructionists at least begin by examining and citing the relevant law itself. Constitutional clauses, statutes, regulations, and judicial decisions are the primary building blocks of legal analysis; everything else is, literally, commentary. You can't write a good legal research paper based solely on citations to secondary sources such as law review articles and textbooks. You have to begin with the actual law. Then, you can argue about interpretation. Legal readers, in the first instance, want to know what the law itself says, rather than what some law professor has to say.

8. **No gratuitous comments.**

Legal writing is not the place for gratuitous comments (e.g., "We should not forget that..." or "Unfortunately, the court disagreed...") or throwaway lines. Words are the attorney's only tool, so law students must learn to write as though every statement counts. In the same vein, use of rhetorical questions (e.g., "Why, you might ask...") should be minimized in legal writing, in favor of declarative statements. The reader wants to know your position on the issues, and providing your position as an answer to a rhetorical question may strike many readers as a bit condescending or patronizing.
9. **Keep the tone serious.**

Legal writing does not have to be somber and boring. Indeed, it ought to be creative and interesting. Creativity and provocation must take place, however, within a serious tone. Certain techniques that may fit well into certain other forms of writing (e.g., humor, rhetorical questions, a "whiz bang!!" feel) detract from the purpose of a legal research paper, which is to persuade the reader to agree with--and ultimately to act upon--your argument. The worst criticism that can be leveled against an attorney is "He/she is dishonest," but the next most devastating is "He/she's a joke." An attorney is of little value to the client if others won't take the attorney seriously, and law students should learn how to begin to earn that respect through their writing style.

10. **Proofread.**

In Evidence and elsewhere in the curriculum, law students learn about presumptions and burdens of proof. When it comes to evaluating a law student's--and eventually a practicing attorney's--writing and the arguments being made in that writing, most readers start with a presumption that sloppy writing (e.g., misspellings, erroneous punctuation, noun-pronoun disagreement, grammatical mistakes) connotes sloppy thinking. Too many mechanical errors in a text can be so distracting that they obscure almost totally the argument the writer is trying to make. In today's word-processing age, there is no excuse for turning in a paper that has not been thoroughly reviewed. The student can catch up on sleep after the paper has been submitted.

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