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WRITING, AND PRACTICE
FOR INTERNATIONAL
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U.S. LEGAL REASONING, WRITING, AND PRACTICE FOR INTERNATIONAL LAWYERS

JOHN B. THORNTON

*Clinical Assistant Professor of Law
Northwestern University School of Law*



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121 Chanlon Rd., New Providence, NJ 07974 (908) 464-6800

201 Mission St., San Francisco, CA 94105-1831 (415) 908-3200

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MATTHEW  BENDER

Dedication

To Gosha, Sean, and Paulina, with all my love.

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Preface

In recent years, many law schools across the United States have seen a large increase in the number of students from other countries who are studying for Masters of Laws degrees (“international LL.M. students”). These students are the primary audience for this book.

International LL.M. students arrive at U.S. law schools from around the world, coming from countries with a great diversity of legal systems and cultures. You also arrive with great differences in your levels of legal practice experience. Some students may have already been practicing law for five to ten years, while others may have recently graduated from law schools in your countries.

Of the students with experience practicing law, some of you may have worked exclusively in your native language, while others may have created attorney work product both in English and in your first language. Still others may have worked at U.S.- or U.K.-based international law firms.

Despite these differences, international LL.M. students share an important similarity: attending law school in the United States will be a challenging new experience for everyone. Part of the purpose of this book is to guide international LL.M. students as you adjust to studying law in a new country, in a different legal system, and likely in a new language as well.

What This Book Contains

This book is designed for a class that teaches U.S. legal reasoning, writing, and research skills (a “legal writing class”) to international LL.M. students. Whatever your law school might call the class, it is designed to teach you how to function as an attorney in the U.S. legal system and how to reason and write in the style that U.S. legal audiences expect.

Thus, this book introduces you to the common law system that exists in the United States; it teaches you how to identify the appropriate rules for a legal issue, whatever their source; how to analyze a legal issue by applying the relevant rules of law to the facts at issue; and how to clearly and efficiently communicate this analysis in the writing style that U.S. lawyers expect to see.

As we will learn, the writing style that a U.S. legal audience expects is likely to be somewhat different from the type of legal writing that you do in your country and in your native language. Indeed, it may well be different from the legal writing that you may have already done in your country in English for English-speaking clients. This is because what each legal system and each language considers to be good legal writing may vary greatly. To learn how to write well here, in English and within the context of the U.S. legal system, it is important to be flexible, and to be willing to write in a style that is likely different from the style that you are familiar with and comfortable using.

It is not easy to learn to write in a different rhetorical style while writing in a different language and while adapting to a different legal system. Accordingly, this book contains chapters with exercises that will help you to master the type of legal writing in English that U.S. lawyers expect. We will practice using the rhetorical style of U.S. legal writing, and legal English vocabulary for the U.S. legal system. The book also covers grammar and usage problems that are common for lawyers who speak English as a second language.

Preface

Also, the book discusses certain aspects of U.S. law firms and legal culture, such as the hierarchy, economics and culture within firms, and what partners expect from associate attorneys, as well as from the international counsel with whom they work.

Moreover, the book teaches study skills that will enable you to succeed in a U.S. law school, including how to write case briefs and course outlines, and how to take final examinations.

Each chapter begins with a preview that introduces the areas that the chapter will cover, and ends with a review that summarizes the main concepts in the chapter. Key legal terms are written in bold, and defined in the chapter and in a glossary at the back of the book.

Finally, the book contains numerous examples of good U.S. legal writing, to help you to understand better what it looks like. The appendixes at the back of the book contain several types of legal writing that U.S. attorneys commonly produce: formal office memoranda, more informal email memos, letters to clients and opposing counsel, basic contracts, and trial and appellate briefs. These writing samples are real U.S. attorney work product that has been redacted for the book.

In conclusion, this book is designed to help you to master the legal reasoning and writing skills that will help you to succeed in a U.S. law school, as well as the skills that will enable you to practice law with a U.S.- or U.K.-based international law firm. In addition, these skills will help you to work as local counsel in your country in matters where U.S.- or U.K.-based international law firms may work with your firm to represent the same client, or where they may represent the opposing party. Also, these skills will help you to work as in-house counsel for a company that does business internationally. In short, using this book and taking a legal writing course at a U.S. law school will help you to gain U.S. legal expertise and to add value for your clients as an attorney who is familiar with the U.S. legal system, and with how U.S. lawyers think, write, and behave.

John B. Thornton
Chicago, October 2013

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