

Written Advocacy I: Memoranda

Advanced Legal Writing

Jin-Ho King

February 16, 2022

Outline

Written Advocacy

Memoranda in Support

In-Class Exercise

Assignment

Effective Advocacy

- ▶ Humanize your client and cause
- ▶ Keep your arguments clear and concise
- ▶ Use roadmaps to orient your audience
- ▶ Be honest
- ▶ Comply with applicable rules

Common Motions

- ▶ Motion to Dismiss
- ▶ Motion to Compel (Production of Discovery)
- ▶ Motion for Judgment
 - ▶ Judgment on the Pleadings
 - ▶ Summary Judgment
 - ▶ Judgment for Acquittal
 - ▶ Judgment Notwithstanding the Verdict
- ▶ Motion *in Limine*

Motion to Dismiss

- ▶ Typically based upon a limited set of factual allegations
- ▶ Relief: Dismissal of the case

Discovery Motions

- ▶ Typically based upon (1) what the party has requested and (2) what the other party has produced
- ▶ Relief: Production of the discovery (or sanctions)

Motion for Judgment

- ▶ Typically based on all of the relevant, available facts
- ▶ Typically resolve factual disputes in favor of the non-moving party
- ▶ Relief: Judgment in the moving-party's favor

Trial Motions

- ▶ Often based on (1) the party's theory of the case and (2) the expected evidence
- ▶ Relief: often admission or exclusion of evidence

Anatomy of a Memorandum

- ▶ Caption
- ▶ Introduction
- ▶ Background
- ▶ Argument
- ▶ Conclusion
- ▶ Signature
- ▶ Certifications

Caption

- ▶ Court and Jurisdiction
- ▶ Parties
- ▶ Case Number
- ▶ Document Title
- ▶ Other Annotations Required by Rule

Sample Massachusetts State Court Caption

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT
TRIAL COURT DEPARTMENT

BLUE FUJI BEDFORD, INC., and
JACKY AN XIE,

Plaintiffs,

v.

KEBIN CHEN, JI XING LIN, ZUOCAI
XU, WEN PENG LI, LIN Y. XU, YING
FANG CHEN, SHULUAN "SUSAN"
ZENG, YUN LIN, JIAN ZHENG NI, and
YUN QING XU,

Defendants,

Case No. 2181CV01131

HEARING REQUESTED

**DEFENDANTS KEBIN CHEN, JIN XING LIN, ZUOCAI
XU, WEN PENG LI, LIN Y. XU, AND SHUYUAN ZENG'S
MOTION FOR PARTIAL DISMISSAL OF THE
AMENDED VERIFIED COMPLAINT**

Sample Federal Court Caption

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IVYMEDIA CORPORATION,

Plaintiff,

v.

ILIKEBUS, INC., ALAN ZOU,
TONG WEI, and JOHN DOE,

Defendants.

1:15-cv-11918-NMG

**MEMORANDUM IN SUPPORT OF DEFENDANTS'
MOTION TO COMPEL DISCLOSURE AND DOCU-
MENT PRODUCTION**

Sample New York State Court Caption

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ELOBIX AB,

Plaintiff,

v.

FERRING INTERNATIONAL CENTER SA,

Defendant.

Index No. 652473/2019

Hon. Barry R. Ostrager
Part 61

Motion Sequence No. 1

**PLAINTIFF ELOBIX AB'S OPPOSITION TO DEFENDANT'S
CPLR 3211 MOTION TO DISMISS THE COMPLAINT**

Introduction

- ▶ (Sometimes unlabeled)
- ▶ Identifies parties and the relief sought
- ▶ Establishes theme

Background

- ▶ (Sometimes labeled Statement of Facts and/or Procedural History)
- ▶ Continues the theme established in the introduction
- ▶ Narrates the facts
- ▶ Uses chronological order
- ▶ DOES NOT ARGUE (avoid legal conclusions)

Argument

- ▶ Uses TREAT
- ▶ Uses persuasive headings
- ▶ Persuades using facts and law, not (just) rhetoric
- ▶ AVOIDS HOSTILITY AND SARCASM

Conclusion

- ▶ Concisely states the relief requested

Signature Block

Respectfully submitted,
KEBIN CHEN, JI XING LIN,
ZUOCAI XU, WEN PENG LI,
LIN XU and SHUYUAN ZENG,
By their attorneys,

MILLIGAN RONA DURAN & KING LLC

Dated: June 25, 2021

/s/ Jin-Ho King, Esq.
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Required Certifications

- ▶ Certificates of Service
- ▶ Word Count Certifications
- ▶ Conferencing Certifications

Sample Commercial Division Rule 17 Certification

CERTIFICATION PURSUANT TO COMMERCIAL DIVISION RULE 17

I, Jin-Ho King, hereby certify that this document contains 6882 words exclusive of the caption, table of contents, table of authorities, and signature block, and that it complies with the word limit of Commercial Division Rule 17.

Dated: September 30, 2019

/s/Jin-Ho King
Jin-Ho King (jhk@mrdklaw.com)

Sample Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2022, I electronically filed the foregoing documents with the United States Court of Appeals for the First Circuit by using the CM/ECF system. I certify that the following parties or their counsel of record are registered as ECF Filers and that they will be served by the CM/ECF system:

For the United States of America:

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/s/Jin-Ho King

Jin-Ho King

Exercise Details

Exercise: Evidentiary Motions in Limine

Collaboration Link: <https://docs.google.com/document/d/1za>

Today's exercise is to review the assignment memorandum, the supporting documents (email, deposition, affidavit, and 911 transcript), and the *Baldwin* case and discuss—

- ▶ the applicable law
- ▶ the applicable facts
- ▶ potential themes

Assignment:	Memorandum in Support
Grade:	10% of final grade
Deadline:	February 23, 2022, at 6PM
Word Limit:	1500
Special Requirements:	Track hours spent on assignment

Assignment Details

Your assignment this week is to prepare a memorandum in support of a motion *in limine* to admit an email into evidence. I recommend that you use the following template as a starting point: memorandum template.

All of the sources you need for the assignment are in the document library. These are the same documents for the outlining assignment.

You should track how much time you spend on this assignment.

Grading Criteria

► Overall Appearance

- ☐ Does the memo include all necessary sections?
- ☐ Is the typing and physical presentation neat and in the necessary format?
- ☐ Does the memo comply with the mandated word-count limit?

► Introduction

- ☐ Does the introduction identify the relief requested?
- ☐ Does the introduction establish the memo's theme?

► Background

- ☐ Does the writer organize the factual narrative appropriately, such as by using an introductory paragraph?

Document Library

Memorandum