

The Scrivener: Modern Legal Writing
E-Etiquette: Thoughtful E-Mail Correspondence
by K.K. DuVivier
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DO YOU HAVE QUESTIONS ABOUT LEGAL WRITING?

K.K. DuVivier will be happy to address them through the Scrivener column. Send your questions to: kkduvivier@law.du.edu or call her at (303) 871-6281.

Dear Readers:

This is an example of a traditional business letter. The salutation above is formal; it starts with "Dear" and ends with a colon. The body uses edited prose that follows standard capitalization and punctuation rules. A complimentary closing, "Sincerely," serves as the conclusion. Finally, both a typed name and title, as well as a signature, appear at the bottom.

Secondary school teachers still advise students to write business letters this way.¹ In contrast, business communications by e-mail often vary significantly in tone and style. If you have adopted some e-mail variations, this column addresses what messages you might be unintentionally conveying and how to make your business e-correspondence more thoughtful.²

Sincerely,

A handwritten signature in black ink, appearing to read "K.K. DuVivier".

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Electronic Correspondence

Just as some were decrying the death of writing because of multimedia alternatives,³ along came the Internet. The Internet has encouraged people to write more than ever. Bloggers fill cyberspace with pages of information. Instead of chatting on the phone, friends text-message each other on their cell phones.

Internet acquaintances connect online in chat rooms. Most American adults have e-mail accounts, and many college students and business persons have multiple accounts.

Yet much of this electronic correspondence is different from traditional letters or publications. For example, when composing e-mails, many authors use informal, "stream of consciousness" writing. Abbreviations, incomplete sentences, and other unconventional styles are common, and text often remains unedited. Consequently, while the Internet may be encouraging people to write, it is not necessarily encouraging people to write thoughtfully.⁴ Let us explore the impacts of this informal writing on e-mail business correspondence.

The Salutation

Many e-mails do not start with a salutation. This may be because the writer does not know how to properly address the recipient. When writing to an unknown business acquaintance, it is best to stick to the conventions of traditional business letters by using "Dear." As with most business relationships, start with "the highest level of formality until the other person indicates otherwise."⁵ This allows the recipients to "set the level of familiarity" with which they are comfortable.⁶

The Body

"Spontaneous" and "informal" are two words that describe most standard e-mail writing. Although this may be entirely appropriate for close friends, it is not the best choice in a business setting.

In legal writing, the norm is to use formal full wording, as well as standard capitalization and punctuation. This norm evolved not only because the standard forms were created to enhance communication, but also because presenting writing this way tells the readers something about the author. Writers who accurately follow the conventions appear to be displaying that they are educated, reliable, and careful. Writers who do not follow the conventions may be doing so because they do not know or do not care to follow the rules; either impression is a negative one. Thus, readers may judge you simply by the form of your writing.

Informal writing, on the other hand, is less thoughtful because it may place the burden of understanding on readers. Poetry readers expect to expend effort on interpretation. In contrast, business readers expect crisp, concise communication. "BTW ill B @ mtg C U soon" saves strokes on the keyboard or on a handheld device such as a BlackBerry, but someone who is not familiar with the abbreviations may struggle to get the message.

In addition, it is best not to revert to *scripto continua*, the pre-Aristophanes continuous script that has no capital letters or punctuation.⁷ Omitting these visual cues to meaning may save you keystrokes, but the omission demands more work from your readers, especially when it results in an entirely different word such as the use of "ill" for "I'll." Placing your ease above your readers' may seem discourteous and can generate ill will.

Never forget the permanence of writing. Once words have been put on a page, they take on a life of their own. Although e-mail correspondence is quicker and more convenient than paper correspondence, arguably, it should warrant more care. Once you push the "send" button, there is no going back. You will not be present to explain or retract your words. Furthermore, with the simple click of another button, the recipient may forward your message to colleagues or to the entire online community. It is well worth the extra time it takes to proofread your e-mails and spell-check them if your program has that option.

The Closing

Some writers conclude e-mails without a closing or a signature, but some readers may find this annoying.⁸ Not only is it abrupt, but many feel the closing is the best place to get clues they need about how to interpret the tone of the message. The closing is "where relationships and hierarchies are established, and where what is written in the body of the message can be clarified or undermined."⁹ Sometimes e-mail communications "evolve from formal to intimate in a few back-and-forths [of rapid-fire correspondences]."¹⁰ Alternatively, communications may go the other direction, from intimate to formal, when the closings get shorter and cooler and readers feel negotiations are starting to break down.¹¹

Consider the signature. If you have not met a recipient, start your correspondence using full names and titles. Then, follow the recipient's lead in your response. Use of a nickname in a responsive closing generally means permission to move to a first-name basis. "Forget Mr. President. Just call me 'W.'"

What about the traditional business closings of "Sincerely" or "Yours truly"? Some feel these are overly formal in an e-mail setting. One businessman noted that "he chooses his own business sign-offs in a descending order of cordiality, from 'Warmest regards' to 'All the best' to a curt 'Sincerely.'"¹² Although many people like to use "Best" for their sign off, some interpret it as chilly.¹³ In contrast, "Warmly" (a closing I have used for more than ten years) is popular with many because it "falls comfortably in between." It conveys a sense of warmth and passion beyond "Sincerely," yet it is not inappropriately intimate in a business setting.

Some writers use "Love," "Hugs and Kisses," or "XOXO" in business e-mails, but these closings put off many business readers. They suggest the writer does not have good judgment, and such closings may seem overly intimate. In addition, these closings may create a "cognitive dissonance."¹⁴ "Love" as a closing makes no sense if the body of the letter is formal business advice or a complaint to a company.

Conclusion

So, my dear friends:

Continue to enjoy the ease of e-mail writing, but remember to be thoughtful. Consider both the form and the content of your business messages so your readers can receive them in the professional way you intend.

Warmly,

K.K.

NOTES

1. See, e.g., Sebranek, Kemper, and Meyer, *Writer's INC* (Houghton Mifflin Co., 2001) at 298.
2. In this column, I use "thoughtful" in a dual sense. First, "thoughtful" can suggest reflection and consideration of alternative meanings. Second, "thoughtful" in the etiquette sense can mean considering the impact on others when doing something.
3. See, e.g., DuVivier, "Slide Rules, Telegrams and Legal Writing," 20 *The Colorado Lawyer* 485 (March 1991).
4. Ogunnaike, "'Yours Truly,' the E-Variations," *The New York Times* (Nov. 26, 2006), available at <http://www.nytimes.com>, quoting Mitchell, *The Complete Idiot's Guide to Etiquette*, 2d ed. (Alpha, 2000).
5. Ogunnaike, *supra* note 4, quoting Judith Kallos, creator of NetManners.com.

6. *Id.*

7. K.K. DuVivier, "When Flayspecks Matter—Part I," 33 *The Colorado Lawyer* 69 (Sept. 2004).

8. Ogunnaike, *supra* note 4, *quoting* Letitia Baldrige, a manners expert.

9. *Id.*

10. *Id.*

11. *Id.*, *quoting* Chad Troutwine, an entrepreneur in Malibu, California.

12. *Id.*

13. *Id.*, *quoting* Kim Bondy, a former CNN executive.

14. *Id.*, *quoting* Mitchell, *supra* note 4.