Preface		xxi
Acknou	ledgements	XXV
INTRO	ODUCTION	1
	Researching A. Researching Facts B. Researching Law Using Artificial Intelligence or Forms A. Using Artificial Intelligence i. Inaccuracy ii. Bias iii. Exposing Confidential Information	1 1 2 3 3 3 4 5
3.	B. Using Forms Avoiding Bias A. Language Choices B. Assumptions	6 6 7
1. EN	IGAGEMENT LETTERS	9
2.	Audience Purpose Components of an Engagement Letter A. Identification of the Client B. Description of the Matter the Lawyer Is Agreeing to Handle C. List of the Client's Responsibilities D. List of the Lawyer's Responsibilities E. Explanation of How the Lawyer Will Be Compensated F. List of Additional Expenses the Client Will Be Expected to Pay G. Explanation of How a Retainer Fee Will Be Used H. Statement That Either Party Can End the Relationship I. Reminder That You Cannot Guarantee the Outcome in the Case J. Identification of Whom the Client Can Contact with	9 9 10 10 10 11 11 11 12 12 12 12
	Complaints	13

		K. Explanation of What Is Necessary for Representation	
		to Begin	13
		L. Explanation of What Is Necessary for You to Represent the	
		Client in Additional Matters	13
		M. Document-Retention Policy	14
		N. Signatures	14
	4.	Strategic Considerations for Engagement Letters	14
		A. Demonstrate Balance	14
		B. Talk About the Letter First	15
	_	C. Specify When the Engagement Begins	16
		Ethical Considerations for Engagement Letters	16
	6.	Conclusion	17
2	DE	MAND LETTERS	19
٠.			
		Audience	19
		Purpose	19
	3.	Components of a Demand Letter	20
		A. Identification of Your Client	20
		B. The Demand	20
		C. Support for the Demand	20
		D. Consequences	21
	4.	Strategic Considerations for Demand Letters	21
		A. Strategic Considerations Related to Audience	21
	_	B. Strategic Considerations Related to Purpose	22
		Ethical Considerations for Demand Letters	23
		Other "Dos" for Demand Letters	24
	7.	Conclusion	25
2	CC	OMPLAINTS	27
٥.			27
		Audience	27
		Purpose	28
		Pre-Suit Requirements for a Complaint	28
	4.	Components of a Complaint	28
		A. Caption	29
		B. Title	29
		C. Parties	29
		D. Basis for Jurisdiction and Venue	30
		E. Factual Allegations	30
		F. Causes of Action	31
		G. Prayer (Also Called "Relief Sought")	32
		H Signature Line	32

	5. Other Requirements When Filing a Complaint	33
	6. Strategic Considerations for Complaints	33
	A. Encouraging an Early Settlement Offer	33
	B. Persuading the Judge That You Have a Strong Case	34
	C. Seeking Favorable Media Attention	35
	D. Satisfying Your Client's Desire to Tell Its Story	35
	E. Invoking Insurance Coverage	36
	F. Meeting or Tolling a Limitations Deadline	36
	G. Other Strategic Considerations	36
	7. Ethical Considerations for Complaints	37
	8. Conclusion	37
4.	ANSWERS	39
	1. Pre-Answer Possibilities	39
	2. Audience	40
	3. Purpose	40
	4. Components of an Answer	40
	A. Caption	40
	B. Title	41
	C. Admissions and Denials	41
	D. Affirmative Defenses	41
	E. Special Matters	42
	F. Prayer	42
	G. Signature Line	42
	H. Certificate of Service	42
	I. Verification	43
	5. Strategic Considerations for Answers	43
	A. Preserving Defenses Versus Identifying Issues	44
	B. Giving Your Client Its Say	44
	C. Giving Fair Warning That an Issue Will Be Contested	. 44
	D. Asserting Your Client's Claims	44
	6. Ethical Considerations for Answers	45
	7. Conclusion	45
5.	CLIENT COMMUNICATIONS	47
	1. Audience	47
	2. Purpose	47
	3. Forms of Client Communication	48
	A. Letters	48
	B. E-Mail	48
	C. Texts	50

		D. Bills	50
	4.	Components of a Client Letter	51
		A. Letterhead	51
		B. Date (with Optional File or Matter Number)	51
		C. Recipient Block	51
		D. Reference Line	51
		E. Salutation	52
		F. Body	52
		G. Sign-Off	53
		H. Name and Signature	53
		I. End Matter	53
	5.	Up-Front Conclusions	54
	6.	Strategic Considerations for Client Communications	55
		A. Explain the Effect of Information on the Client's Case	55
		B. Manage Expectations	56
		C. Keep It Short	57
		D. Use Plain English	57
		i. Legal Terminology	57
		ii. Citations	57
		E. Be Responsive	58
		Ethical Considerations for Client Communications	58
	8.	Conclusion	59
_			
6.	DI	SCOVERY REQUESTS	61
	1.	Audience	61
	2.	Purpose	61
	3.	Types of Discovery	62
		A. Disclosures	62
		B. Interrogatories	62
		C. Requests for Production	62
		D. Requests for Admission	63
		E. Depositions by Oral Examination	63
		F. Depositions by Written Questions	63
		G. Request for a Physical or Mental Examination	63
	4.	Components of a Written Discovery Request	63
		A. Caption	63
		B. Title	64
		C. Instructions	64
		D. Definitions	64
		E. Interrogatories or Requests	64
		F. Signature Line	65
		G. Certificate of Service	65

	5. Strategic Considerations for Discovery	65
	A. Consider What Information You Want	65
	B. Use the Best Discovery Device for the Job	66
	C. Phrase Your Discovery Precisely	67
	D. Time Your Discovery Strategically	67
	6. Ethical Considerations for Discovery	68
	7. Conclusion	69
7.	DISCOVERY RESPONSES	71
	1. Audience	71
	2. Purpose	71
	3. Components of a Written Discovery Response	72
	A. Caption	72
	B. Title	72
	C. General Objections	72
	D. Responses	72
	E. Signature Line	72
	F. Certificate of Service	73
	4. Strategic Considerations for Discovery Responses	73
	A. Read Questions Closely and Object with Care	73
	B. Assert Privilege Correctly	73
	C. Give Fair Answers	73
	D. Find and Disclose All Responsive, Nonprivileged	= .
	Information 5. Ethical Considerations for Discourse Property of the Property	74
	5. Ethical Considerations for Discovery Responses	74
	6. Conclusion	75
8.	OPPOSING COUNSEL COMMUNICATIONS 1. Audience	77
	2. Purpose	77 78
	3. Forms of Opposing Counsel Communication	78 78
	A. Letters	78 78
	B. E-Mail	78
	C. Texts	79
	4. Components of an Opposing Counsel Letter	80
	5. Strategic Considerations for Opposing Counsel	00
	Communications	80
	A. Provide Context	81
	B. Include the Necessary Details	82
	C. Move the Matter Forward	83
	D. Watch Your Tone	84

	E. Don't Make Yourself Dependent on Your Opposing Counse6. Ethical Considerations for Opposing Counsel Communication7. Conclusion	
0	MOTIONS	0.7
9.	MOTIONS	87
	1. Terminology	87
	2. Audience	88
	3. Purpose	88
	4. Components of a Motion	88
	A. Caption	88
	B. Title	89
	C. Opening	89
	D. Introduction or Preliminary Statement	89
	E. Statement of Facts	90
	F. Motion Standard	91
	G. Argument and Authorities H. Drawa (Also Called "Polist Sought")	92
	H. Prayer (Also Called "Relief Sought") I. Signature Line	93 93
	J. Certificate of Service	93
	K. Certificate of Conference	93
	L. Evidence	94
	5. Strategic Considerations for Motions	94
	A. Decide Carefully Whether to File a Motion	94
	B. Rely on Binding Authority if Possible	95
	C. Use Case Law to Aid Your Reader	96
	D. Write Persuasively Without Appearing to Persuade	97
	i. Credibility	98
	ii. Story	99
	iii. Emphasis	99
	E. Anticipate the Response	100
	6. Ethical Considerations for Motions	100
	7. Conclusion	101
10.	RESPONSES	103
	1. Audience	103
	2. Purpose	103
	3. Components of a Response	104
	A. Caption	104
	B. Title	104
	C. Opening	104
	D. Introduction or Preliminary Statement	104

		E. Statement of Facts	105
		F. Motion Standard	106
		G. Argument and Authorities	106
		H. Prayer (Also Called "Relief Sought")	108
		I. Signature Line	108
		J. Certificate of Service	108
		K. Evidence	109
	4.	Strategic Considerations for Responses	109
		A. Order Your Arguments to Persuade and Respond	109
		B. Emphasize the Motion Standard	110
	5.	Ethical Considerations for Responses	111
	6.	Conclusion	112
11	SI	JPPORTING EVIDENCE	113
		Audience	113
		Purpose	113
	3.	Types of Evidence	114
		A. Live Testimony	114
		B. Deposition Testimony	114
		C. Deposition on Written Questions	115
		D. Documents	115
		E. Discovery Responses	115
		F. Pleadings	116
	4	G. Affidavits	116
	4.	Components of an Affidavit	116
		A. Caption	116
		B. Title	117
		C. State and County Identification	117
		D. Name and Qualifications of Affiant	117
		E. Basis for Affiant's Knowledge F. Facts	117
		- 1	118
		G. Signature Line	118
	5	H. Jurat Strategic Considerations for Affidavits	118 119
	٥.	A. Use Affidavits to Present Your Case Persuasively	119
		,	119
		B. Consider Carefully Who Should Draft the AffidavitC. Avoid Legalese	120
		D. Plan in Advance for Obtaining Affidavits from Third Parties	120
		E. Discuss the Testimony You Need Before Hiring an Expert	121
	6	Ethical Considerations for Affidavits	122
		Conclusion	123
	/ •	Concrasion	143

12.	2. MEDIATION STATEMENTS			
	1.	Audience	125	
	2.	Purpose	126	
	3.	Components of a Mediation Statement	126	
		A. Introduction	126	
		B. Factual Background	127	
		C. Claims and Defenses	127	
		D. Contested Legal Issues	127	
	E. Relief			
	4.	Strategic Considerations for Mediation Statements	128	
		A. Assess Your Case Honestly	128	
		B. Concede Known Weaknesses	128	
		C. Let Your Client Be Heard	129	
		D. Respect the Mediator's Time	130	
		E. Be Careful About Disclosing Your Bottom Line	130	
		F. Consider Remedies Other Than Damages	130	
		More Documents if Your Case Settles	130	
	6.	Conclusion	131	
13.	JL	IRY INSTRUCTIONS	133	
	1.	Audience	133	
		Purpose	134	
	3.	Components of Jury Instructions	134	
		A. Caption	134	
		B. Title of Entire Set of Instructions	135	
		C. Request for Use of the Instructions	135	
		D. Heading for Instruction or Question	135	
		E. Text of the Proposed Instruction or Question	135	
		F. Citation to Authority	136	
		G. Additional Questions and Instructions	136	
		H. Signature Line	136	
		I. Certificate of Service	136	
	4.	Strategic Considerations for Jury Instructions	136	
		A. Write Your Jury Charge Early and Refer to It Often	137	
		B. Follow Form or Pattern Jury Charges to the Extent Possible	137	
		C. Make the Instructions as Intelligible as Possible	137	
		D. Stick with Language That Courts Have Approved	139	
		E. Include All Instructions and Definitions Needed to		
		Support a Judgment in Your Favor	139	
		F. Draft Instructions Even for Questions You Don't Want		
		Submitted	139	

		G. Condition Instructions You Don't Want Submitted on	
		Your Objection	140
		H. Enlist the Assistance of an Appellate Specialist	141
	5.	Ethical Considerations for Jury Instructions	141
	6.	Conclusion	142
14.	W	RITING PRINCIPLES FOR LITIGATION	143
	1.	Implement a Thorough, Practical Writing Process	143
		A. Gather Ideas or Brainstorm	143
		B. Order the Ideas or Create an Outline	144
		C. Draft Freely	144
		D. Edit and Proofread	144
	2.	Design Accessible, Skimmable Documents	147
		A. Make Information Accessible	147
		B. Learn About Typography and Document Design	147
		i. Text Justification	148
		ii. Fonts	149
		iii. Skimmability	149
		iv. Emphasizing Text	151
	3.	Produce Readable Writing	151
		A. Avoid Hyperformal, Pompous Legalese	152
		B. Choose Simpler Words	153
		C. Choose Wisely on Some Legal-Writing Conventions	154
		D. Write in Plain English to Those Without Legal Training	156
	4.	Organize to Put Reader Needs First	156
		A. Get to the Point	156
		B. Use Up-Front Summaries	157
		C. Use Headings and Subheadings	158
		D. As a Default, Organize Facts Chronologically	158
	5.	Write Persuasively	159
		A. Manage Tone	159
		B. Cite Authority Effectively	160
		C. Write Concisely	160
		i. Don't Fear Possessives	160
		ii. Prefer the Verb	161
		iii. Use Simple Prepositions	161
		iv. Omit Throat-Clearers	161
		v. Minimize Long Connectors and Transitions	161
		D. Reduce Intensifiers	161
		i. Drop Them	162
		ii. Replace Them	162
		iii. Specify	163

	E. <i>N</i> .	lanage Emotional Language	163
	F. C	onsider Visuals	164
6.	Conc	clusion	167
APPEN	NDIC	CES: SAMPLE DOCUMENTS	169
	A.	Sample Engagement Letter	171
	В.	Sample Demand Letter	175
	C.	Sample Complaint	177
	D.	Sample Answer	182
	E.	Sample Client E-Mail	186
	F.	Sample Client Letter	187
	G.	Sample Interrogatories	190
	H.	Sample Requests for Production	195
	I.	Sample Requests for Admission	200
	J.	Sample Opposing Counsel E-Mail	205
	K.	Sample Opposing Counsel Letter	206
	L.	Sample Administrative Motion	208
	M.	Sample Substantive Motion	211
	N.	Sample Response	221
	O.		232
	P.	Sample Affidavit About Facts of the Case	234
	Q.	Sample Mediation Statement	236
	R.	Sample Jury Instruction	240
Index			2/13