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How to Write a Memorandum for Litigation

Introduction

Use this document as a guide to layout and structure your memorandum for litigation. This document has three sections: formatting, document header, and body organization and content. The formatting section describes how to set up the memorandum layout. The document header section describes both the layout and content of the document header. The body organization focuses on the elements and contents of the body and addendum of the memorandum. The body elements of this are based on CUNY School guidance¹ which recommends a format that is common in the legal profession. While there are some similarities to the past memorandum, there are differences as well so read and adhere to the document requirements included in this document.

FORMATTING

This section provides formatting information for your memorandum. If you do not know how to accomplish any of the formatting requirements, there are many good online resources, please consult them.

Paper

- Complete your internal business memorandum on 8 ½ x 11 inch plain white paper.
- Use portrait page orientation with the 11-inch side vertical (see Figure 1).
- You should not use templates for the memorandum that include decorative graphics in the header and footer (i.e. do not use memorandum templates from word or elsewhere that have graphics or images in the header and footer).

Margins & Page Footer

- Set up the document with one-inch margins on all sides.
- Place the subject line text of your memorandum in the document footer ½" from the bottom and 1" from the left side of the page. Make the title in the footer one font size smaller than the body text, to set it apart visually. Your inclusion of the title in the footer allows for reassembly of printed copies if pages get separated (see Figure 1)
- Number pages in the margin ½ inch from the bottom 1" from the right side of the paper using the same size font as the body text.

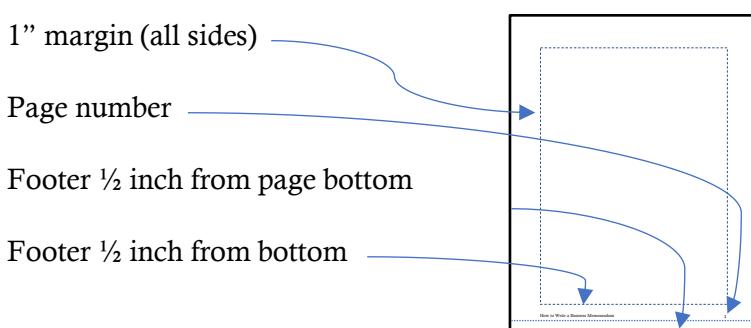


Figure 1: Page Layout

Paragraph Set-Up

- Set up your document single spaced.
- Set up your paragraphs left-justified with no indentation.
- Remove extra point spacing before and after paragraphs. Manually add an extra line between paragraphs, between paragraphs and titles or subtitles and between titles and subtitles.

Font Style and Text Size

- Use an easy to read and familiar font such as *Times New Roman* or *Calisto* (or other clean [serif font](#)). You should avoid unusual, unfamiliar, or difficult to read fonts that may make it harder for the memorandum's audience to read the document.
- Use 12 point font size, as it is a good size for readability of business documents. You may go down a point size if it helps you keep the last few lines of a memorandum from ending on a page alone.
- Keep font size consistent in the document unless otherwise specified.

Document Title

- Start a business memorandum document with the title "Memorandum" or "Memo". Use "Memorandum" for more formal communication, when communication is going to people you work for or their bosses or those outside your organizational group. You may use "Memo" as a title for less formal communication, such as within your working group.
- Center the title horizontally.
- Use a bold, clean [san serif font](#) (i.e. Arial Bold or Helvetica Bold) in a point size or two larger than the rest of the text. This is the only part of the document that may have a different font style. This title may have lines above and below to accent the title (see Figure 1). If you use lines you must extend them margin-to-margin.

Section Titles

- Start sections of the body of the memorandum with titles on their own lines. Makes the titles easier to see by making them bold and/or underlined.
- If sections need subsections title them in ways that are visually distinct, but less so than the main titles (i.e. italicized)

Widows and Orphans

- *Widows* and *orphans* are terms used in document formatting. You need to be aware of these as you should NOT have them in your finished document.
 - *Widows* refers to titles at the bottom of a page where the information after them starts on the next page.
 - *Orphans* refers to one or two lines of a paragraph left at the bottom of the page with the rest of the paragraph on the next page.
- You may set this up as a word rule but should also review your document after it is completely written and edited to make sure there are no widows and orphans.

DOCUMENT HEADER

This section addresses both the format and content of the memorandum header. This is the lead into a memorandum document NOT a page header, and appears only on the first page of the memorandum. The elements of the document header are: the addressee(s) (to), the writer (from), the date, and the subject of the memorandum. If needed an additional section may be included listing additional people or groups to which the memorandum will be sent.

- First, is the primary recipient(s) and their title(s). List these one name and title per line.
- Next is an optional line titled “CC” that lists people that are not primary recipients but will be sent copies of the document, with their titles. This may also name groups. Again, list them one name and title per line. Begin each name aligned vertically by setting a tab that allows this.
- The next line is who the memorandum is from and names the person(s) and titles of the sender(s).
- The next line is the date. Format this as month (spelled out fully), day, and year (see Figure 2)
- The last line is the what the memorandum is in reference to written “Re”. This line must contain two things: the name of the litigant and a subject of the memorandum. Each line is left-justified. Leave a line between “Memorandum” and the header, each part of the header, and the header and the body of the text.
- You may include a line below the header that goes across the page margin-to-margin. An example of the title and header is provided in Figure 2.

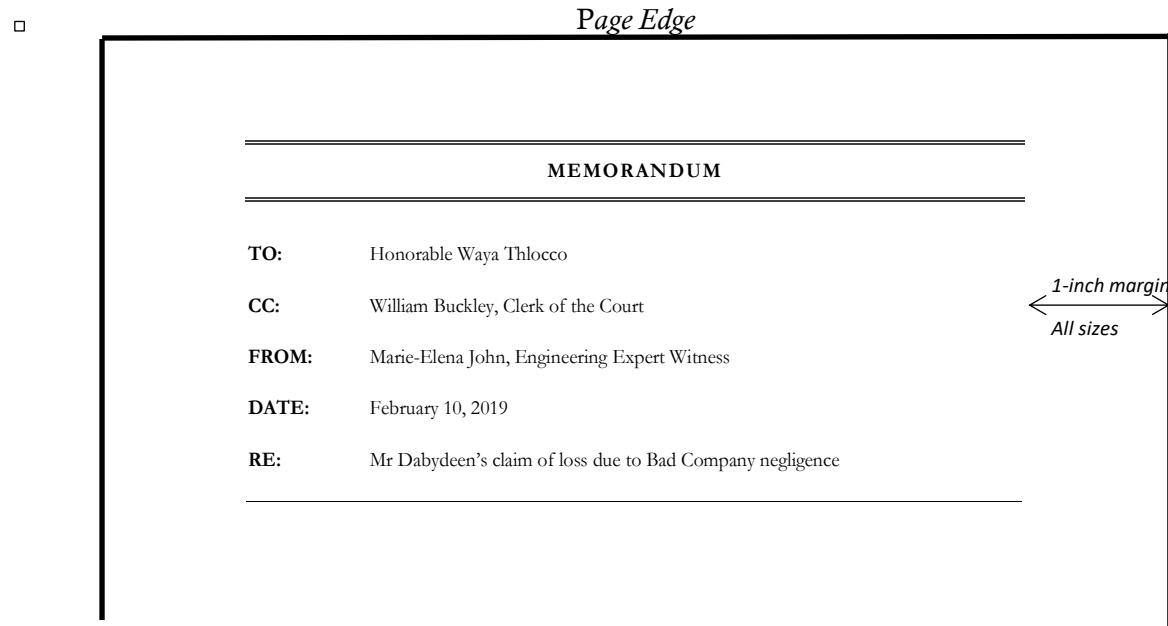


Figure 2: Memorandum Title and Header Example including Content Example

CONTENT

The structure and content of this section are based on a condensed version the online “Drafting a Law Office Memorandum” webpage from CUNY School of Law (2018). While their description is intended for starting a legal case using legal president, this is a format that would be familiar in the legal profession.

Elements of a Statistical Analysis Submitted for Litigation by an Expert Witness¹

Include at minimum the following sections in your memorandum: question presented, brief answer, facts, discussion, conclusion, and addendum. Any references are identified in foot notes in enough detail for the reader to know the document title, author(s), date of publication, and how to access the document if it is publicly available on line. summary, analysis, conclusion, and addendum.

Question Presented

- This section follows the header.
- Present the subject of the memorandum as specific, objective question. Legal professionals word these questions to elicit a yes/no answer, sometimes with qualifications (e.g., Yes, under Florida law).
- Include the name of the jurisdiction (e.g. Florida Second District Court).

Brief Answer

- This section presents the answer to the question.

Facts

- Provide the context and input information you have for this situation in this section

Discussion

- Start this section with a thesis statement that includes the question your answer.
- In this section present:
 - The logic of how you analyzed the question,
 - Why this approach to reviewing the question is the best approach to use, and
 - What the outcome of your analysis was and how it lead to the answer you arrived at.

Counterargument

- You may include this information, if brief, in the discussion. If it is longer it should be a section by itself.
- Present any counterarguments along with why you do not feel they are valid.
- This section should “[d]iscuss and resolve any counterarguments in favor of your principal line of analysis” (CUNY School of Law, 2018, para. 15)

Conclusion

In this section provide a summary of the discussion, counterargument, and answer. It can also identify additional information that could be sought to provide a stronger answer.

Visual Support (this content is required in your document, however the location and content is up to you to determine. Use visual support to enhance or make clearer what you are saying. Place it where it can be seen along with the text it supports as readers review both.)

- Do not start your document with a graphic.
- If you find you are using more than two sentences to present your data or analysis, consider the use of [tables, graphs, or charts](#).
- Leave two lines above and below the table, chart, or graph with its number and title and the body of the text.
- Place the visual in the document where it can be seen at the same time as the text that refers to it (name the figure or table in the text).
- Avoid saying a graphic is above or below where you discuss it, in case you need to move the location.
- Be sure to include identification of all table and chart elements and a key where it is needed to identify the image or table.
- Include and locate [numbers and titles](#) appropriately.

Addendum

- An addendum starts on a new page with the title “Addendum” and a letter or number with a title of the addendum (see Figure 3).
- For this work include the mathematical analysis as an addendum. You may include an addendum with the raw data, or a summary of the raw data, if it is not included in the body of the memorandum. If you have additional research that you do not want to include in the body, but could be helpful to readers, it may be another addendum.

Page Edge

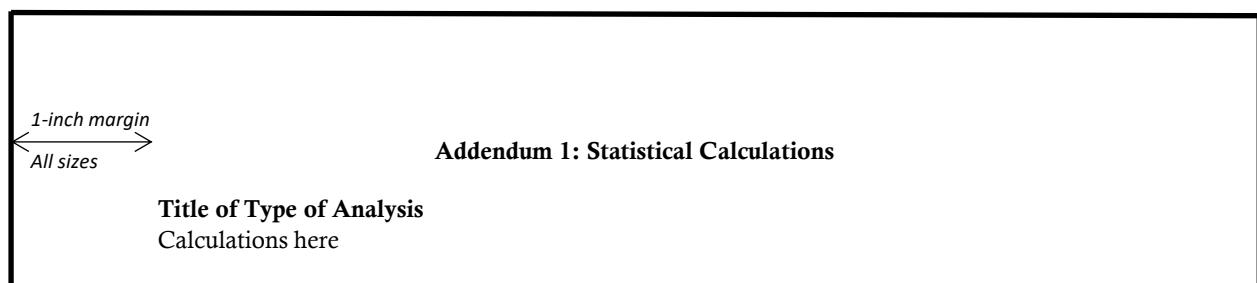


Figure 3: Addendum Page Layout

¹ The structure and content of this section is based on the online “Drafting a Law Office Memorandum” webpage from CUNY School of Law (2018). While their description is intended for starting a legal case using legal president, this is a format that would be familiar in the legal profession.



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