

ATTORNEY EVALUATIONS:
SPECIFIC FACTORS.

A. Issues -- Selection and Definition

1. Identifies Standard Issues

Identifies standard issues which would be apparent to an attorney having knowledge of the record and a reasonable awareness of existing procedural and substantive law.

2. Identifies Subtle Issues

Shows depth of insight and analytical skill in identifying and developing issues. Identifies issues that are not obvious and perceives their implications.

3. Identifies Current Issues

Identifies current issues which would be apparent to an attorney having knowledge of the record and familiarity with recent trends and the cases then pending in the appellate courts of California and the United States.

4. Evaluates Issues Properly

Exercises sound judgment in determining the merit of each issue and treating each issue according to its merits. Gives each issue its share of the brief, but no more. Arranges issues in the brief in an appropriate order. Eliminates issues which are only marginally arguable if they detract from the remaining issues or the tone of the brief as a whole.

5. Defines Issues Clearly

Demonstrates competency in framing each issue. Defines the scope of the issue. Clearly understands and

phrases the exact question to be decided by the Court.
Uses effective argument headings.

B. Research

1. Performs Thorough Research

Thoroughly researches all relevant aspects of each potential issue, becoming familiar with the law on related issues or “sub-issues” when necessary. Finds the most recent cases. Shows resourcefulness and knowledge of available materials.

2. Selects Appropriate Authority

Cites adequate authority for the principles relied upon, neither string-citing unnecessarily nor making statements without support. Whenever possible uses cases which are factually on point as well as legally relevant. Takes account of adverse authority.

3. Cites Authority Accurately

Cites and quotes legal authorities accurately, does not intentionally or negligently misrepresent the facts or law contained in authorities.

4. Checks Current Validity of Authority

Uses Shepard’s, etc. Cites no cases which have been overruled, depublished, or granted review in the California Supreme Court.

C. Argumentation

1. Organizes Argument.

Presents position in a coherent manner. States facts, sets forth legal principles and authorities, argues, and summarizes in a logical, orderly progression. Keeps objective of argument in mind; does not ramble or dwell on marginal matters.

2. Covers All Points Essential to Position

Is aware of and addresses all points logically or legally necessary to the argument. Applies law to facts. Argues prejudice. Anticipates and discusses failure-to-object, waiver issues.

3. Handles Authority Skillfully

Analyzes authorities accurately and perceives their implications. Argues from analogy and distinguishes or challenges adverse authority skillfully.

4. Demonstrates Proficiency in Advocacy Skills

Shows confidence in position. Presents strong arguments forcefully, weak ones credibly. Takes controversial stand where necessary. Maintains appropriate tone and balance. Handles facts sympathetic to opposition capably, without adopting defensive or insensitive posture.

5. Is Consistently Professional in Manner

Maintains decorum without being pompous or overly formal. Is respectful to the court and opposing counsel. Concentrates on merits and refrains from personal attacks.

D. Style and Form

1. Writes Fluently

Shows mastery of written language. Presents ideas clearly and concisely. Avoids legalisms.

2. Uses Correct Grammar, Diction, Spelling, Capitalization, and Punctuation

Demonstrates command of the structure and formal elements of the English language. Does not detract from professional image by displays of carelessness and illiteracy. Proofreads carefully.

3. Presents Statement of the Case Properly

Summarizes only those procedural facts relevant to the appeal itself or the specific issues to be decided. Cites to record.

4. Presents Statement of Facts Properly

Summarizes in the statement of facts only those facts supported by the record. Adequately cites to the record. Is scrupulous in presenting the facts accurately and in the light most favorable to the respondent. Clearly separates and labels the defense evidence. Writes the pertinent facts in narrative form, not a witness-by-witness account.

5. Uses Correct Citation Form

Uses correct citation form for both legal authorities and the appellate record.

6. Follows Rules and Good Practice on Form and Technical Aspects of Pleadings

Follows prescribed format and formal requirements as to typing, binding, copying, and distributing of briefs and other pleadings. Gives briefs neat, orderly, professional appearance.

E. Responsibility/ Timeliness

1. Makes Sure Record Is Adequate

Whenever necessary reviews the trial exhibits and the superior court file. Augments the record as needed.

2. Makes Use of Opportunities for Reply Briefs and/or Oral Argument

Orally argues or files a reply brief whenever necessary. Bases the decision to request or waive oral argument upon the appropriateness of argument, not upon convenience.

3. Is Reliable and Cooperative in Working with Project

Promptly answers letters and returns phone calls. Keeps appointments. Meets informal interim deadlines within a reasonable time. Accepts reasonable recommendations and suggestions which are not in conflict with the attorney's duty to his or her client or the attorney's professional judgment.

4. Observes Deadlines

Files all motions, briefs, and petitions on or before the date due, requesting extensions of time if, but only if, necessary.

F. Relationship with Client

Writes the client soon after appointment, answers correspondence, and provides the client with copies of all filings. When the court's opinion is issued, promptly advises the client; explains how to file his or her own petitions if the attorney sees no merit in proceeding further. Selects issues to maximize effectiveness of appeal for client; acts zealously and conscientiously in fulfilling obligation to client, regardless of perceived rewards in case for attorney.