

Retaining Valued Associates

Training International Lawyers in Written and Spoken English

By Dianne Rosky

Is there really a difference between “under Chinese law” and “under the Chinese law”? Is it correct to write, “We recommend you to settle”? When do you use “according to” as opposed to “in accordance with”?

These are a few of the questions I fielded from Chinese lawyers who attended legal English training programs I recently taught in Shanghai and Beijing. For most U.S. lawyers, the answers are intuitive and fairly obvious. But to non-native speakers, even those whose English is excellent, these subtleties of English are understandably vexing.

TODAY'S GLOBAL LAW FIRM

Law firms and law departments need the expertise international lawyers offer, but they also need those lawyers to write and speak with a clarity approaching that of a native speaker. Opportunities for advancement are limited for lawyers — no matter how dedicated and brilliant — who write e-mails that are scattered with awkward mistakes or cannot be easily understood by clients on a conference call.

As the legal profession continues to globalize, more and more international attorneys are working in U.S. legal of-

fices. To help valued international lawyers write top-notch memos and explain themselves effectively on conference calls, legal employers need to provide those lawyers with communication skills training that addresses the particular needs of lawyers from places as diverse as Shanghai and São Paulo.

Here is an overview of the issues and options for helping international lawyers communicate effectively in English.

WRITING

Effective writing is central to a lawyer's professional persona and success. In top-tier legal environments, even U.S.-trained, native-English-speaking lawyers struggle to meet the sky-high expectations. The challenge facing lawyers who are non-native English speakers is daunting: Imagine the difficulty of functioning at the highest professional level in your second language. Not many Americans could pull it off.

The good news is that writing skills are eminently teachable, especially to international lawyers who work in U.S.-based firms or law departments — most of whom have studied English for many years and achieved a high level of writing proficiency. Their problems tend to lie in the details: native Chinese and Russian speakers have difficulty mastering article usage, as their languages do not use articles; Israelis and Spanish speakers tend to misuse certain English verb tenses that do not correspond to Hebrew and Spanish; and all non-native-English speakers find it challenging to master idiomatic preposition usage (why *on* our call but *in* your e-mail?).

Even a perfect understanding of English grammar and usage does not guarantee an international lawyer's writing

success. Foreign-trained associates must also learn cultural aspects of legal writing, such as basic U.S. citation form and the IRAC approach to structuring legal analysis and argument, which most U.S.-trained lawyers take as a given. Those who trained in civil law countries are less familiar with the process of extrapolating a coherent rule from a line of cases.

GROUP PROGRAMS

For firms and law departments that have at least five international lawyers, group training in writing is practical and cost-effective. Group programs can be all-encompassing, or focus in on either the grammatical or the cultural aspects of U.S. legal writing. The most effective sessions include plenty of concrete examples and exercises, preferably based on the group's own writing samples. These training programs are typically half-day or full-day.

Some firms are moving toward another approach, which is to offer an ongoing series of shorter sessions. There's an obvious advantage to this approach: Improving writing isn't something that can be achieved in an afternoon. Participants in ongoing programs are engaged in a process of continually improving their writing over months, even as they are applying what they have learned to their firm memos and e-mails. They can also come back to later sessions with follow-up questions. A series of shorter sessions is particularly useful when all or some associates are participating by videoconference, where attention spans are generally shorter.

ONE-ON-ONE COACHING

The writing mistakes of an associate from China may not have much in common with the issues facing a law-

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yer from Brazil or Israel. Because non-native speakers' English mistakes differ based on their native language, one-on-one coaching is often the most efficient and effective approach. Coaching requires a bigger investment in one or two associates, but in the right circumstances, the investment is a sound one. Coaching is a good option for high-potential associates, senior associates, and those who offer unique expertise in their practice areas.

These associates are already advanced in English, but cultural habits and minor grammar mistakes may be undermining their success. In most other cultures, writers are not expected to explain their main point at the start of a document; in some contexts, doing so would be considered disrespectful. Some associates simply need to understand how to meet U.S. readers' cut-to-the-chase expectations.

Grammar mistakes are a more common problem. U.S.-trained readers may lose confidence when they see what looks like a basic mistake: a missing "the"; a verb-tense problem (e.g., "Call me after you reviewed the document"); or a subject-verb agreement error (e.g., "Each of the agreements contain an arbitration provision"). As one client recently told me, one mistake can plant the seed of doubt in the reader's mind.

In an environment where details matter, eliminating or minimizing these mistakes can open up advancement possibilities. And with motivated, mature associates, coaching pays off. I have coached associates from Israel, Italy, Germany, China, Korea, Russia and Brazil. What unites them is the value they bring to their practice groups and the esteem in which their firms hold them. Attorneys conducting their professional lives in a second language are generally highly motivated and intelligent; they tend to embrace the coaching opportunity and end up noticeably improving their writing.

SELF-STUDY

For firms with a minimal training budget, self-study programs offer useful, low-cost options for writing skills training. Associates can work their way through an academic book on legal writing, or a book on Eng-

lish grammar and usage. The Internet offers a huge array of free and low-cost resources on legal writing, as well as grammar and business English for non-native speakers.

Here are a few resources I recommend:

1. The Law Student's Guide to Good Writing (<http://goo.gl/p2BBu>): An online guidebook with exercises.
2. Legal Writing Advice from Wayne Schiess, of the University of Texas School of Law (<http://goo.gl/MEB5H>): Comprehensive grammar and style tips from the Director of the Legal Writing Program at University of Texas Law School.
3. International Legal English: A Course for Classroom or Self-Study Use, by Amy Krois-Linder and TransLegal: A textbook for serious self-motivated learners.
4. Woe is I, by Patricia T. O'Conner: A wonderful, accessible guide to difficult grammar and usage issues.

SPEAKING AND ACCENT-REDUCTION

I love a charming accent as much as anyone. But the fact is, when an accent interferes with a lawyer's ability to be understood, that lawyer's career is likely to stall. Many international attorneys have studied English extensively, but have not had much opportunity to practice speaking English in a professional context. Their written work may be excellent, but when the time comes to speak to impatient listeners on a conference call or in a meeting, many struggle to make themselves understood.

The good news is that, like writing, English pronunciation is a learnable skill. In fact, clearly pronouncing English sounds is a straightforward matter of learning to shape the mouth correctly when speaking; these physical, muscular skills are readily acquired through drills and practice, much like faithfully doing the right exercises will tone your arm muscles. Trained accent-reduction coaches can home in on the precise sounds that are interfering with an associate's clear speech, and show the associate exactly how to pronounce those sounds more clearly.

Given the idiosyncracies of each speaker and the close physical work of accent reduction, one-on-one coaching

is generally what's called for. Coaching requires a bigger investment in a smaller number of associates, but in the right circumstances, it makes sense. For high-potential associates and those who have strong expertise in a valued area, individual accent-reduction coaching, either in person or by videoconference, is a fast way to achieve noticeable results and eliminate a major barrier to advancement. When coaching is presented not as remedial but as an investment the firm is committed to making, associates generally seize the opportunity.

For firms or companies that have a number of associates from the same language background, small group accent-reduction sessions are another good alternative. Like writing errors, the problematic sounds differ based on an associate's native language. For many Asian language speakers, "r" and "l" sounds are difficult, as is the final sound of any word. For Hebrew speakers, English vowel sounds are hard to distinguish. One Israeli associate we worked with was concerned that when he said "sheet," it sounded like a four-letter word with an i. You can see how this might undermine his confidence.

Given these similarities, small group sessions can focus on the sounds that are most challenging to native speakers of a particular language. In the group programs I taught in China recently, I included several videotaped pronunciation segments presented by my colleagues who specialize in accent reduction. After each segment, the lawyers broke into small groups and practiced pronouncing the specific sounds we targeted, and each person got feedback on her efforts.

Last, the Internet offers plenty of free options for pronunciation and accent-reduction work. YouTube videos demonstrating proper pronunciation of difficult sounds abound, as do podcasts and software.