



Legal Writing Summer Institute 2020

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Background Reading:

Ten Tips for Transitioning to Legal Writing

Why is developing strong legal writing skills so important?

How is legal writing likely to be a new type of writing for you?

Why is following a particular structure significant in legal writing?

Why should you look at sample documents?

What pre-writing tasks should you incorporate into your writing process?

What is “plain English,” and why should you rely on it in your legal writing?

What should you do to avoid quoting excessively?

What should you plan to do after completing an initial draft of your writing project?

What types of issues should you look for when proofreading your written work?

What should you do with feedback?

Background Reading: Talking to Students About the Differences...

Evolution of Writer-Reader Relationship

Method of Reporting on Research Conducted

Significance of Document Length

Background Reading: How to Read a Legal Opinion

Caption

Citation

Author

Facts + Procedural History

Law (move from rule to ruling)

Concurring/Dissenting Opinions

Background Reading: How to Read a Legal Opinion

Focus on

facts,

parties' legal arguments,

disposition (affirm, reverse, remand),

majority's reasoning

Background Reading: How to Read a Legal Opinion

Majority's Reasoning

Source of Law: Constitution, Statutes, Common Law

Method Applied: *Stare decisis*? Public policy?

Holding versus Dicta

Background Reading: How to Read a Legal Opinion

Vocabulary Lesson, Part 1

Legal Disputes: Civil versus Criminal

Lawsuit, Plaintiff, Defendant, Damages, Injunction

Charges, Prosecutor, Defendant, Incarceration, Fine

Background Reading: How to Read a Legal Opinion

Vocabulary Lesson, Part 2

Appellate Litigation

Trial Court

Appellate Court, Circuit Court

Appellant/Petitioner

Appellee/Respondent

Background Reading: How to Read a Legal Opinion

Why use the case method?

Briefing Cases - *Barton, Santalucia, Whelan*



Step 1: Skim document to locate components of opinion



Step 2: Read full opinion and look up unfamiliar words/phrases in legal dictionary



Step 3: Re-read opinion while taking notes that will be transformed into case brief



Step 4: Finalize case brief

- Heading
- Facts
- Procedural History
- Judgment
- Holding
- Reasoning

Client Memorandum: Introduction

Purpose

- Evaluate for the assigning attorney the **strengths and weaknesses** of your client's claim through the **application of the relevant law to your client's facts** in a **logically organized document**
- Establish these strengths and weaknesses through the process of **analogizing and distinguishing the authorities** you collected
- Achieve above purposes through an **objective and predictive** document

Sections

- Heading
- Question(s) Presented
- Brief Answer(s)
- Statement of Facts
- Discussion
- Conclusion

Paradigm

- IRAC/IREAC/CREAC, etc.
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Client Memorandum: Tasks

What is our client's ISSUE?

What is the relevant legal RULE?

Which of our client's FACTS are significant?



Client Memorandum: Chart of Authorities

| Authority | Factor 1: False and Fraudulent Representation of Age | Factor 2: Justifiable Reliance on Misrepresentation | Factor 3: Age of Discretion |
|--------------------|--|---|-----------------------------|
| <i>Hood</i> | | | |
| <i>Carney</i> | | | |
| <i>Clemons</i> | | | |
| <i>Watters</i> | | | |
| <i>Woodall</i> | | | |
| <i>Siegelstein</i> | | | |

Creating a chart of authorities is essential for helping you organize the Discussion section of your memorandum by rule, rather than by case!

Client Memorandum: Chart of Authorities

| Authority | Factor 1: Defendant's Intent/Knowledge | Factor 2: Extreme/Outrageous Conduct, Beyond All Possible Bounds of Decency, Utterly Intolerable in Civilized Community | Factor 3: Causation | Factor 4: Severe Emotional Distress, No Reasonable Person Expected to Endure |
|---------------|--|---|---------------------|--|
| <i>George</i> | | | | |
| <i>Agis</i> | | | | |
| <i>Boyle</i> | | | | |
| <i>Simon</i> | | | | |
| <i>Conley</i> | | | | |

Good luck!

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Lewis & Clark Law School Writing Center

https://law.lclark.edu/centers/law_school_writing_center/