

---

# Reading Like a Lawyer



---

# Reading Like a Lawyer

*Time-Saving Strategies for Reading Law  
Like an Expert*

Ruth Ann McKinney

CAROLINA ACADEMIC PRESS  
Durham, North Carolina

Copyright © 2005  
Ruth Ann McKinney  
All Rights Reserved

**Library of Congress Cataloging-in-Publication Data**

McKinney, Ruth Ann, 1951–  
Reading like a lawyer : time-saving strategies for reading law like an expert / by Ruth Ann McKinney.  
p. cm.  
ISBN 1-59460-032-5 (alk. paper)  
1. Law students—United States—Study guides. 2. Law—Study and teaching—United States. 3. Reading comprehension. I. Title.

KF283.M398 2005  
340'.071'173—dc22

2005003374

Carolina Academic Press  
700 Kent Street  
Durham, NC 27701  
Telephone (919) 489-7486  
Fax (919) 493-5668  
[www.cap-press.com](http://www.cap-press.com)

Printed in the United States of America

---

To my parents, who taught me to love reading;

To the students, faculty, and staff of the University of North Carolina  
School of Law, where I learned to love reading law;

and

To Ray, who reminds me to play.



---

# Contents

Acknowledgments  
Introduction

**Part I Building a Strong Foundation**

Chapter 1	Reading in Law School	3
Chapter 2	Basic Briefing: Developing an Initial Strategy for Managing Cases	17
Chapter 3	Advanced Thinking Leads to Advanced Reading	33
Chapter 4	Expert Reading: A New Take on a Familiar Skill	51

**Part II Mastering Reading in a Law School Casebook**

Chapter 5	Engage with Energy	59
Chapter 6	Monitor Your Reading and Read for the Main Idea	71
Chapter 7	Always (Always!) Read with a Clear Purpose	97
Chapter 8	Get Oriented and “Own” Your Prior Knowledge and Experience	105
Chapter 9	There’s More to the Five Ws (Who, What, When, Where, and Why) Than Meets the Eye	133
Chapter 10	Evaluate What You’re Reading – Your Ideas Matter	153
Chapter 11	Review, Rephrase, Record	171
Chapter 12	Casebook Reading: A Summary	211

**Part III Moving Beyond the Casebook – Reading Law  
in the Real World**

Chapter 13	Reading Statutes	219
------------	------------------	-----

---

Chapter 14	Reading Cases Outside of Casebooks	239
Chapter 15	Conclusion	263
Appendix A	Test Your Reading Speed	267
Appendix B	Getting in a Good Reading Groove	271
Appendix C	Advanced Reading Checklist (Focus & Enjoy)	279
Appendix D	Resources for Further Reading	283



---

## Acknowledgments

Writing this book has reminded me that writing, thinking, and reading are integrated, collaborative activities. Without the substantial help of many colleagues, students, friends, and family members, I would not have developed my initial ideas about reading and law into this text. I hope all those who touched this project know how grateful I am for their thoughts and encouragement.

At the risk of leaving someone important out, I'd like to first thank the students at the University of North Carolina School of Law for sharing their reading experiences with me over many years and also for sharing concrete suggestions as I worked my way through this book. Specifically, I'd like to thank Atinuke Akintola (Class of 2006), Tamika Jenkins (Class of 2005), and Jennifer Neuhauser (Class of 2005) for their concrete writing and content suggestions, and the members of my fall 2004 writing section as well as the entire LEAP class of 2007 for their input and encouragement. I would like to especially acknowledge the irreplaceable help of my Research Assistants, Chrystal Lee (Class of 2005) and Ed Eldred (Class of 2006), for their background research, editing suggestions, and collaborative support. Finally, a heartfelt thanks to my Research Assistant, Carmen Hoyme (Class of 2005), for her initial research, thoughtful editing comments, and unerring attention to the many details involved in the final production of this book.

One of the joys of teaching in a law school is having the privilege of maintaining ongoing contact with highly competent alumni. I gratefully acknowledge the significant assistance of our alumni, Mr. Jeff W. Hudson and Mr. Neal Ramee, who generously shared their areas of expertise with me as I thought through the content of this book.

Numerous colleagues from the University of North Carolina School of Law helped identify illustrative cases and shared thoughts about the reading process, including Professor Scott Baker, Professor Jack Boger, Professor Ken Broun, Professor Charles Daye, Professor Maxine Eichner, Professor Joe Kalo, Professor Eric Muller, and Visiting Professor Wilson Freyermuth. Professor Bobbi Boyd, Deputy Director of the Writing and Learning Resources Center, gave invaluable advice concerning both content and editing, and offered an abundance of moral support as well. Ms. Patty Frey, our program administrator, offered critical support services and creative ideas throughout the writing process. I am indebted to the Law School's Information Technology Department, which does a masterful job supporting the website that accompanies this book. Finally, I am particularly grateful for the consistent encouragement of Senior Associate Dean and Professor Gail B. Agrawal and Dean and Professor Gene R. Nichol.

Colleagues outside of the law school shared their thoughts and offered input from across disciplines. Dr. John Edgerly, Dr. Glen Martin, and Dr. Dan Darnell of the University of North Carolina's office of Counseling and Psychological Services, Dr. Rod Dishman and Dr. Patrick O'Connor of the University of Georgia, and Dr. Amy Rountree shared ideas and statistics from their respective professions about healthy student behavior. I am also grateful to Dr. Dorie Evensen of Penn State University for her significant insights about reading and theories of adult education. I am indebted to my long-term friend, Ms. Polly Hochwalt Wolfe, for sharing her understanding gleaned from many years as a teacher, of how the use of think-aloud reading protocols can improve reading skills. Mr. Frank Kessler of the University of North Carolina's Learning Center has given his time generously and effectively over many years to help me and to help our students develop an understanding of reading in the legal context.

I am grateful for the support and encouragement of colleagues throughout the legal academy, including Dr. Marty Peters of the Uni-

---

versity of Iowa College of Law, Professor Suzanne Rowe of the University of Oregon School of Law, Professor Ian Gallacher of Syracuse University College of Law, Ms. Cathaleen Roach of DePaul University College of Law, Professor Laurel Currie Oates of the Seattle University School of Law, and Professor Nancy A. Wanderer of the University of Maine School of Law. Professors Elizabeth Fajans and Mary R. Falk, through their foundational work in this area, have had an enormous impact on my ideas about reading and law. I also offer my heartfelt thanks to the folks at Carolina Academic Press, especially Bob Conrow and Tim Colton for their enthusiasm, encouragement, and creativity, and my personal gratitude to our colleagues at Thomson-West Publishing Company for their generous copyright assistance.

No writing project can go forward without the explicit support of family and friends, and I am especially grateful to my husband, Ray E. West, my parents, George and Lucy McKinney, my sister, Dr. Mary Schweitzer, and my brother, Dr. George McKinney III. I appreciate the assistance of my adult offspring, Bret Gerbe, Lynda Gerbe, Matt West, and Ashlie West, who offered their usual insights and encouragement along the way.

Finally, I would like to thank Dr. Mary Lundeborg, Professor and Chair of the Department of Teacher Education at Michigan State University, whose seminal dissertation work in the area of case law reading and whose thoughtful sharing of her reading expertise motivated me to pursue my interest in reading and my conviction that reading well is the key to success in the study and practice of law.



---

## Introduction

Exceptional law students, and exceptional lawyers, are expert readers. From the first semester of law school, fledgling lawyers commonly read hundreds of pages of dense, challenging law in a week, and thousands of pages in a semester. Later, in practice, lawyers read statutes, cases, and administrative regulations every day, decoding the words in the texts and reaching behind the words to the many possible meanings that could be attributed to the law they're reading.

Law students – and lawyers – who read law well are getting something from their reading that is not shared by those who read law less proficiently. Starting with the first days of class, what law students understand about the reading process itself has a major impact on how they read their assignments. How they read their assignments determines what they are able to get from those cases and statutes, what they are able to bring to class discussions and take from class discussions, and – ultimately – what they are able to learn for exams. How they read in law school, in turn, directs the path of their reading in the profession. Practicing lawyers who have developed sound reading practices in law school approach their analytical work with confidence, secure in the knowledge that they can read the law powerfully, passionately, and accurately. Put succinctly, these lawyers read with conviction, knowing they are reading like an expert.

The good news is that the ability to read law like an expert is not a gift that you're either born with or lack from birth. Students and practitioners have not been separated into the sheep and the goats prior to entering law school, relegated forever to green pastures or rocky cliffs. Rather, reading law like an expert is a skill that can be acquired by every-

one with the curiosity, determination, and flexibility to adapt their prior reading skills to this new setting – and these skills can be acquired *at any time*. Once acquired and whenever acquired, the skill of reading law like an expert brings cascading rewards, enriching the reader’s understanding of existing law and enhancing the reader’s ability to create new paths to the law of the future.

The purpose of this book is to teach you what the experts already know: how to read law-related material as efficiently, effectively, and powerfully as possible. There are three sections to the book:

Part I introduces you to background information you need to know about the study and practice of law to get in the reading game. If you are already familiar with the structure of law school and the fundamentals of legal logic, you may choose to go directly to Part II.

Part II focuses on casebook reading, the kind of reading that dominates the first years of law school. This second section introduces seven specific reading strategies, captured in the acronym E.M.P.O.W.E.R., that are common to all expert reading, and explores how law students can apply these strategies in the context of their casebook reading.

Part III of the book moves outside of the casebook context, exploring how students and practitioners can read statutes and unedited cases accurately, confidently, and efficiently.

There is a section of Appendices: Appendix A gives you a chance to test your baseline reading speed; Appendix B introduces a case-reading checklist that beginning students can use to develop healthy casebook reading habits; Appendix C introduces an advanced case-reading checklist to help successful students speed up their reading once they’ve developed sound habits. Appendix D offers a reading list for those who would like to explore the topic of legal reading in greater depth.

Finally, there is a website at <http://www.unc.edu/~ramckinn> that accompanies this book. You will find useful supplementary material on that website, including some of the responses I thought about as I wrote the Practice Exercises at the end of each chapter. Comparing my re-

---

sponses to your own may help you gain confidence as you develop your legal reading skills.

At their core, both law study and law practice are dependent on reading. If you learn to read law efficiently and effectively, you will be well on your way to achieving excellence in the study and practice of law. It is my hope that what you learn from this book will help get you started on the right page.

