

# **A Lawyer Writes**



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A Practical Guide to Legal Analysis

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Dedication

*To the family I was born to and the family I was blessed with—  
Rick, Jacob, Jonathan, Addison, and Isabelle.*

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*To my parents, who were my first editors, and to Bob Rocklin,  
my co-editor and partner in all that I do.*

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*To Shawn and Anna Blake for their unfailing support  
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SCP



# Contents

- Acknowledgments xv
- Introduction xvii
  
- Chapter 1 · How Attorneys Communicate 3**
  - I. What Is an Objective Analysis? 3
  - II. How Do I Present My Analysis? 4
    - A. An Office Memorandum 4
      - 1. The substance of a memorandum 4
      - 2. The form of a memorandum 5
    - B. An E-mail 9
      - 1. The substance of an e-mail 9
      - 2. The form of an e-mail 10
  - III. How Do I Convince an Attorney My Analysis Is Sound? 10
    - A. Know Your Client and Your Client’s Question 10
    - B. Research Thoroughly 10
    - C. Organize 11
    - D. Draft and Revise 11
    - E. Edit and Polish 11
    - F. Think Recursively 12
  - IV. What Happens Next? 13
  
- Chapter 2 · Sources and Systems of the Law 15**
  - I. Sources of the Law 15
    - A. The Legislature 16
      - 1. Statutes 16
      - 2. Legislative history 18
    - B. The Executive Branch 19
      - 1. Regulations 19
      - 2. Executive orders 20
    - C. The Judiciary 21
  - II. Weave a Tapestry of Law 22
  - III. Systems of the Law 22
    - A. Jurisdiction 23
    - B. Hierarchical Court Systems 24
      - 1. Hierarchy in the federal courts 26
      - 2. State court hierarchies 28

3. Side-by-side court systems	28
C. Stare Decisis and Precedent	29
<b>Chapter 3 · Reading for Comprehension</b>	<b>33</b>
I. Learning to Read for a Purpose	34
II. Reading Statutes	35
A. Basic Structure of a Statute	35
B. Reading Statutes Critically	38
1. Get context	39
2. Skim the most pertinent statutory sections	40
3. Read the text closely and question it	41
(a) Red flag words	41
(b) Elements and factors	42
III. Reading Judicial Opinions	43
A. Basic Parts of a Judicial Opinion	43
1. Procedural information	46
(a) The caption	46
(b) The citation	47
(c) The author of the opinion	49
2. Contextual information	49
(a) The facts	49
(b) The procedural history	49
(c) The issue or issues	50
3. The court's analysis	50
(a) The rule of the case	50
(b) The holding or holdings	51
(c) The reasoning	51
(d) Dicta	51
(e) The judgment or disposition	52
(f) Concurring and dissenting opinions	52
4. Publishing tools to note	52
(a) Argument synopsis	52
(b) Headnotes	53
B. Reading Judicial Opinions Critically	53
<b>Chapter 4 · Finding Your Argument</b>	<b>57</b>
I. Determine the Governing Rule	58
A. A Statute as the Governing Rule	58
B. Common Law as the Governing Rule	58
C. A Synthesized Rule as the Governing Rule	59
II. Inventory the Governing Rule's Working Parts	60
A. Elements	60
B. Factors	60
C. Red Flag Words	61
D. Tests	61
1. Elemental analysis	62



2. Balancing test	62
3. Totality of the circumstances test	62
4. Prong test	63
III. Think Like a Lawyer: See the Governing Rule as Individual Legal Arguments	63
IV. Identify Individual Legal Arguments	64
A. Example 1: The Elements in Burglary	64
B. Example 2: The Elements in Adverse Possession	65
<b>Chapter 5 · Organizing Your Legal Authority</b>	<b>67</b>
I. Chart the Cases	68
A. Chart the Governing Rule	68
1. Citations	69
2. The parties	69
3. Legal arguments	69
4. Comparison to client's case	69
B. Chart Individual Elements or Factors	71
1. Citation	71
2. Rules	71
3. Facts	71
4. Holding	73
5. Reasoning	73
6. Comparison to client's case	73
II. Outlining	73
A. Why Outline?	74
B. How to Outline	74
III. Give Your Audience What It Needs	78
<b>Chapter 6 · One Legal Argument</b>	<b>81</b>
<b>Chapter 7 · Explaining the Law</b>	<b>87</b>
<b>Section 7.1 · Explaining the Law: Rules</b>	<b>89</b>
I. The Role of Rules	89
II. Finding the Rules	90
A. Explicit Rules	91
B. Implicit Rules	92
1. When to synthesize an implicit rule	92
(a) Example 1: Finding an implicit rule from consistent decisions	92
(b) Example 2: Finding consistency in seemingly inconsistent cases	93
(c) Example 3: Bringing parts together to form a whole	95
2. Dare to explicitly state an implicit rule	96
III. Writing the Rules	97

<b>Section 7.2 · Explaining the Law: Case Illustrations</b>	101
I. The Role of Case Illustrations	101
A. Clarifying Rules	102
B. Proving Rules	102
C. Foreshadowing the Application	103
D. Representing Legal Principles	103
II. The Parts of a Case Illustration	103
A. The Hook	104
B. Trigger Facts	105
C. The Court’s Holding	105
D. The Court’s Reasoning	106
E. Order of the Parts	107
F. The Length of Case Illustrations	108
III. Determining Whether a Case Illustration Is Necessary	109
IV. Using Case Illustrations	110
A. Parameters of Behavior	110
B. Threshold of Behavior	111
V. Choosing Prior Cases	113
VI. Organize Around Legal Principles	115
VII. The Order of Case Illustrations	116
VIII. Writing Case Illustrations	117
<b>Section 7.3 · Explaining the Law: Citing and Avoiding Plagiarism</b>	121
I. Citing	121
II. Avoiding Plagiarism	127
<b>Chapter 8 · Applying the Law</b>	129
<b>Section 8.1 · Applying the Law: Rule-Based Reasoning</b>	131
I. When to Use a Rule-Based Argument	132
II. Crafting a Rule-Based Argument	132
<b>Section 8.2 · Applying the Law: Analogical Reasoning</b>	135
I. When to Use Analogical Reasoning	135
II. How to Construct an Effective Analogy	136
A. State Your Point	137
B. Construct Your Comparisons and Distinctions	138
1. Determine which facts make your client’s case similar to or different from the prior case.	139
2. Describe facts from your client’s case in concrete detail	140
3. Determine the trigger facts from the prior case that need to be recalled	140
4. Introduce no new information about the prior case in your analogy	142
5. Help your reader see the comparison	143
C. Explain Why the Comparison Matters	147

III. Using Analogical and Rule-Based Reasoning Together	147
<b>Section 8.3 • Applying the Law: Counter-Analyses</b>	151
I. The Role of a Counter-Analysis	151
II. Crafting a Counter-Analysis	151
III. When to Include a Counter-Analysis	153
IV. The Different Types of Counter-Analyses	153
A. Counter-Analysis Based on the Facts	153
B. Counter-Analysis Based on Different Law	154
C. Counter-Analysis Based on Competing Interpretations of the Law	157
V. Where to Include a Counter-Analysis	158
A. An Argument at the End	158
B. A Dependent Clause at the Beginning	158
<b>Section 8.4 • Applying the Law: Organizing Your Application     of the Law</b>	161
<b>Chapter 9 • Conclusions to One Legal Argument</b>	165
I. Using a Conclusion to Begin a Legal Argument	165
II. Using a Conclusion to End a Legal Argument	166
III. Using a Conclusion to Introduce Your Application	166
IV. Drafting Conclusions	167
<b>Chapter 10 • Policy</b>	171
I. When to Include Policy in a Legal Argument	171
II. Identifying Legislative Policy in a Statute	173
A. Policy Codified in a Statute	173
B. Policy Recorded in Legislative History	173
C. Legislative Policy Discussed in a Judicial Decision	175
II. Identifying Judicial Policy in the Common Law	176
III. Where to Include Policy in Your Legal Argument	177
<b>Chapter 11 • Statutory Analysis</b>	179
I. Statutory Analysis: A Multi-Step Process	179
II. Reading the Statute	181
III. Interpreting the Statute	183
A. Understanding Methodologies	184
B. Sources of Evidence	185
1. Intrinsic evidence	185
(a) Text and the plain meaning rule	185
(b) Text and context	186
(c) Textual canons of construction	187
(d) Cases	188
2. Extrinsic sources	188
(a) Cases	189
(b) Agency interpretations and regulations	189

(c) Legislative history	189
(d) Non-textual canons of construction	190
(e) Other sources	190
IV. Drafting a Statutory Analysis	191
<b>Chapter 12 · The Discussion Section: Introducing and     Connecting Legal Arguments</b>	197
I. Introduce Your Legal Argument: The Roadmap Section	199
A. State Your Conclusion to Your Client’s Legal Question	199
B. Explain the Governing Rule	200
1. State the governing rule	200
2. Explain how courts interpret or apply the governing rule	202
3. Provide necessary background information	203
C. Dispose of the Obvious and Uncontroversial	203
D. Map the Remaining Arguments	204
E. Conclude Again (If Necessary)	205
II. Create Informative Point Headings	205
A. Make Point Headings “Work”	206
B. Restate the Conclusion after the Point Heading	208
C. Create Professional-Looking Point Headings	209
III. Use Mini-Roadmaps to Introduce Sub-Arguments	210
<b>Chapter 13 · Question Presented and Brief Answer</b>	213
I. The Role of a Question Presented and Brief Answer	213
II. The Form of a Question Presented and Brief Answer	214
III. Writing a Question Presented	215
A. Structuring the Question Presented	216
1. Structuring a Question Presented with under/does/when	216
(a) “Under” the controlling law	216
(b) “Does/Is/Can” this question or legal consequence occur	218
(c) “When” these legally significant facts occurred	218
(d) Vary the order of the three parts if it makes the Question Presented clearer	219
2. Structuring a Question Presented with statements and a question	219
(a) Describe the determinative facts in chronological order	220
(b) Describe the controlling law and pose the legal question	221
B. Tools for Drafting an Effective Question Presented	221
1. Create one Question Presented for each main issue in the memorandum	221

2. Describe the facts that will be determinative to the court	222
3. Describe determinative facts in concrete detail	222
4. Avoid legally significant phrases that assume the answer	223
5. Avoid “whether” when introducing your Question Presented	224
6. State the question concisely	224
IV. Writing a Brief Answer	225
<b>Chapter 14 · Statement of Facts</b>	229
I. The Role of the Statement of Facts	229
II. Types of Facts to Include	230
III. Organizing Your Statement of Facts	231
IV. Reviewing for Thoroughness	233
V. Writing the Statement of Facts	233
VI. Examples	234
<b>Chapter 15 · Conclusion to the Memorandum</b>	239
<b>Chapter 16 · Editing and Polishing</b>	243
I. Edit Your Memorandum	244
A. Edit the Content of Each Legal Argument	244
1. Separate the explanation of the law from the application	245
2. Compare the explanation to the application and check for omissions and excess	246
(a) Verify that ideas explained are applied	246
(b) Remove elegant variation	250
(c) Check the completeness of your case illustration	250
B. Edit the Organization of Each Legal Argument	251
C. Edit the Discussion Section for Context and Flow	252
1. Insert roadmaps and signposts	252
2. Check topic sentences	253
3. Check paragraph cohesion	254
4. Check transitions between arguments	255
II. Polish Your Memorandum	256
A. Strengthen Sentences	257
1. Find and revise overly long sentences	257
(a) Revise sentences with too many ideas	258
(b) Revise wordy sentences	260
2. Create clear subject-verb pairs	260
(a) Bring subject and verb close together	261
(b) Minimize passive voice	261
(c) Minimize nominalizations	262

B. Proofread Your Work	263
C. Check Your Citations	264
III. Customize Your Editing Checklist	264
<b>Chapter 17 · Professional E-mails</b>	<b>269</b>
I. Correspond Professionally	269
II. Consider the Three Integral Parts of Correspondence:	
Content, Tone, and Format	270
A. Keep the Content Short, Clear, and Readable	270
B. Keep the Tone Polite and Professional	274
C. Keep the Style Formal	276
III. Stop and Think Before You Send	277
<b>Appendix A · Effective Memo: Adverse Possession</b>	<b>279</b>
<b>Appendix B · Effective Memo: Intentional Infliction of Emotional Distress</b>	<b>289</b>
<b>Appendix C · Less Effective Memo: Intentional Infliction of Emotional Distress</b>	<b>297</b>
<b>Glossary</b>	<b>303</b>
<b>Index</b>	<b>309</b>

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# Introduction

Imagine that you are a lawyer in the middle of your first day on the job. You have completed your W-4 forms, taken a tour of the office, and shaken hands with new colleagues. Finally, you walk into your office.

At that moment, the phone rings. A senior partner asks that you come to her office. When you arrive, she explains that the firm has a new client who has been arrested and charged with robbing a local bank. She explains that the client's guilt hinges on a statement he made to an undercover police officer. She wants to know whether the client's statement can be excluded from the trial. She asks that you research the problem and get back to her with your analysis.

Your legal career will get off to a much better start if you know *how* to “get back to her with your analysis.” We have written this book for that reason. This book will teach you how to assess the merits of a legal problem and how to communicate your assessment to other attorneys. Those two skills—the ability to assess a legal problem and to communicate your assessment to others—will form the cornerstone of your work as an attorney.

To develop those skills, it will help to imagine that you are a new attorney working in a law office, perhaps a private law firm or a public agency. Your client faces either civil litigation or a criminal trial. Your job is to assess the strength of your client's legal position—one of the most typical tasks asked of a new attorney.

We know that not all of you plan to be trial attorneys. Some of you may not even plan to practice law after you graduate. This book, however, will be useful no matter what field you choose. As you read this book, you will be developing fundamental skills of analysis and communication.

To learn those skills, you will have to be open to a new way of thinking, organizing, and explaining. Each professional discipline has its own way of analyzing a problem and communicating that analysis. The tools and language that a doctor would use to explore and discuss a problem are different from the tools and language that an engineer would use or that an English professor would use.

Our job is to teach you how an *attorney* would explore and discuss a legal problem. Although you bring with you a great many skills from your previous academic and professional disciplines—most notably a keen intellect—you have never before been an attorney.

In this book, we will take you step-by-step through the process of developing and presenting a legal analysis. To prepare you to analyze your client's legal question, we will describe the sources of law and how to weigh, synthesize, and organize those sources. Then, we will show you how to construct a variety of legal arguments, from the simple to the more sophisticated. Finally, we will discuss how to present your legal analysis, whether in an office memorandum or in a professional e-mail.

And that brings us to the first chapter. That chapter explains how attorneys in an office communicate with each other and what it will look like when you get back to that partner with your legal analysis.