

GUIDE TO THE STUDY OF LAW: AN INTRODUCTION

Second Edition

By

L.H. LaRue

*Professor of Law
Washington and Lee University
School of Law*

2001



CAROLINA ACADEMIC PRESS

Durham, North Carolina

ISBN 978-0-82055-320-7 (Print)
e-ISBN 978-1-57911-436-7 (eBook)
LCCM 2001096728

This publication is designed to provide authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal advice or other expert assistance is required, the services of a competent professional should be sought.

Copyright © 2001 Carolina Academic Press, LLC
All Rights Reserved

No copyright is claimed in the text of statutes, regulations, and excerpts from court opinions quoted within this work.

Carolina Academic Press, LLC
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.caplaw.com

Printed in the United States of America
2020 Printing

TABLE OF CONTENTS

	Page
INTRODUCTION	1
CHAPTER 1	
USING RULES	3
1.01 Arguing From Within the Rules	3
1.02 Why We Argue the Way We Do	4
1.03 An Example From Group Living	6
1.04 An Example Drawn From the Law	9
CHAPTER 2	
READING THE LAW SCHOOL CASEBOOK	15
2.01 Background Information	15
2.02 The Fundamental Difficulty in Reading Opinions	17
2.03 Breaking a Case into its Elements	18
2.04 From the World to the Trial Court	19
2.05 From the Trial Court to the Appellate Court	20
2.06 The Appellate Court Reaches a Result	22
2.07 Conclusion	22
CHAPTER 3	
ANALYTICAL WRITING AND THE CLOSED MEMORANDUM	25
3.01 General Principles	25
3.02 Examples	26
3.03 Format	29
CHAPTER 4	
LEGAL RESEARCH AND THE OPEN MEMORANDUM	31
4.01 Organizing the Research	31
4.02 Executing the Research Task	34
CHAPTER 5	
PERSUASIVE WRITING	37
5.01 Skills and Virtues	37

CHAPTER 6**WRITING THE APPELLATE BRIEF 43**

6.01 The Overall Strategy for the Context 43

6.02 Rule Number One for Brief Writing 44

6.03 Rule Number Two for Brief Writing 45

6.04 Rule Number Three for Brief Writing 46

6.05 Afterword 49

APPENDIX A James Boyd White on Legal LiteracyApp. A-1**APPENDIX B An Example for JournalismApp. B-1****APPENDIX C The Brandeis BriefApp. C-1****APPENDIX D *Brown v. Board* Briefs App. D-1**

INTRODUCTION

First year law students often have the feeling that they are starting all over again, that the experience of law school differs in strange ways from their experience as undergraduates. But the differences between law school and the rest of higher education can be mastered, once one focuses on what the differences are. Unfortunately, those who are new to the study of law regularly misunderstand what they need to do. The differences between law school and what has gone before are subtle, so it can be hard for a beginner to understand them.

I have written this book to help the beginner ease into the transition and pass through to the other side. The first two chapters should be read immediately and more than once. These two chapters should help one prepare much better for class. Chapter One explains what is unique and puzzling about the arguments over legal rules that fill up so many of the hours of classroom time; Chapter Two explains how to go about reading the cases in the law school casebook. These two chapters should help one get off to a better start.

The remaining four chapters are about legal writing, and the order of these chapters should parallel the order in which the beginning law student will confront their writing assignments. After a few warm up exercises, the first major writing assignment that a first year student will probably face is the so-called “closed memo.” In this exercise, one is given a packet of legal materials and a problem; one is instructed to use the legal materials to solve the problem and then write up the solution in a memorandum. Chapter Three explains how this assignment differs from the analytical writing that one has done before coming to law school. After the “closed memo” exercise has been mastered, the next major writing assignment is likely to be the “research memo.” By the time this assignment must be faced, the library staff and others will have instructed the first year class in the basic techniques of legal research; by this time, one should know one’s way around the law school library. Chapter Four builds on this basic instruction and attempts to put it in context; this chapter explains the strategy of legal research. Having a good strategy for research is valuable, since it is all too easy to get “lost in the forest” when doing legal research; Chapter Four should help one avoid this dreadful disorientation.

The last major writing assignment for first year students, which will most likely come in the second semester of the first year, is “brief writing.” One will be given a record (a highly abbreviated and somewhat stylized record) of proceedings in a trial court; the assignment will be to write an appellate brief, i.e., to argue whether the trial court got it right. The last two chapters explain how to do this assignment better. Chapter Five is about the general topic of persuasive writing; Chapter Six is about the specific topic of writing a brief. Both of these chapters focus on the strategy of persuasion, not the tactics. A good discussion of the tactics of persuasion and brief writing would require a long book, not two chapters, and the burden of reading such a book would do more harm than good to the average first year student, who is generally hard pressed for time. Consequently, these chapters are brief.

This book also contains several appendices. As background reading, they are valuable, but I do admit that one need not read them to profit from this book. If one of the appendices is relevant to a chapter, a note at the end of the chapter will identify which of them are relevant. If there is time, read them; if not, don’t.

