

Legal Reasoning, Writing, and Other Lawyering Skills

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*To Joe — in gratitude for your unwavering
support and love. I am truly blessed.*

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PREFACE

Evaluating a client's legal problem and communicating that analysis to the client is the cornerstone of any lawyer's practice. However, this fundamental role requires that you be proficient in a number of different roles — that of investigator (eliciting the relevant facts that give rise to a legal issue and researching the relevant law), advisor (assessing how the law impacts your clients, and advising them of their legal rights and obligations), and advocate (advocating for your clients' interests). Day in and day out, in every field of law, you will have the opportunity to practice and master these skills. *Legal Reasoning, Writing, and Other Lawyering Skills* is designed to help you develop these fundamental lawyering skills.

Legal writing is challenging, in part, because the clarity and effectiveness of the final product depends on the clarity of the underlying legal reasoning. Thus, this book teaches and illustrates the underlying skills of legal reasoning and analysis that are integral components of effective legal writing. The forms of written communication in legal writing are also new and challenging. In fact, even though you have been writing most of your life, the legal writing terrain is deceptively challenging for that very reason. To become a skilled legal writer, you must be willing to abandon writing techniques that have worked well in other disciplines, and be open to learning new ways of expressing yourself. Therefore, this book is also designed to help you become a skilled writer by teaching and illustrating effective templates for written legal analysis and argument. It is my hope that you will not only find this book to be a valuable learning guide during law school, but that it will also serve as a useful resource to you as you begin practicing law.

Like learning to play a musical instrument, you will become expert at legal writing by practicing — the more you practice, the more accomplished you will become. To help you learn and then master the skills of legal reasoning and writing, this book emphasizes the process of legal reasoning and writing, from the reading and thinking stages, through the outlining and drafting stages, to the final written product itself. Taking the musical analogy a step further, no one would expect a novice musician to master Beethoven's Ninth Symphony without first having practiced and mastered more basic musical scores. Similarly, law students learn legal writing most easily by first mastering basic skills, and

then building gradually towards mastery of more complex skills. Therefore, the chapters incorporate a building block approach, demonstrating how to evaluate a single case before evaluating how to synthesize a group of cases, and how to draft a simple memo based on one case before drafting a more complex memo based on multiple cases.

Because illustrations are a critically important component of the learning process, this book liberally illustrates every step of the process, from reading a case, to evaluating how a case affects a client's problem, to synthesizing a group of cases, to outlining a template for your written product, to the drafting process itself. Comments are inserted alongside each illustration to help you understand the reasoning, logic and drafting decisions that underlie each part of the illustration. To help you evaluate the illustrations at a deeply comprehensive level, the book uses several repeating hypothetical problems to illustrate each pre-drafting and drafting step. These illustrations are also linked to the sample office memos and court briefs illustrated in the Appendices. Thus, you will have the opportunity not just to review sample documents, but to study the underlying analysis, logic, and choices that influence drafting decisions in the final products.

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