

# **A Lawyer Writes**



# **A Lawyer Writes**

*A Practical Guide to Legal Analysis*

Third Edition

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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, Anna Blake, and MacLean,  
who teach me new things every day.*

SCP



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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 email.

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.