

Starting Off Right in Law School

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THIRD EDITION

Carolyn J. Nygren



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Contents

Introduction to the First Edition	xi
Why I Wrote This Book	xi
1. To provide information about the legal system	xi
2. To provide information about the study skills necessary for success	xi
Why You Should Read This Book	xii
What You Should Know About the Book	xii
The “Voices”	xii
The Topic	xii
The Simplified Explanations	xiii
What This Book Doesn’t Cover	xiii
Introduction to the Second Edition	xv
Introduction to the Third Edition	xvii
Acknowledgment	xix
1 • What Lawyers Do When a Client Calls	3
Background for This Chapter	3
Court	3
Statute	4
Judge-Made Law	4
Case	4
Stare Decisis and Precedent	4
Plaintiff and Defendant	5
Cause of Action	5
Defense	5
Jurisdiction	5
Reporter	6
Uniform Commercial Code (UCC)	6

The Filet of Flounder with Lobster Sauce—1985	7
Telling the story	7
Deciding to sue	8
Consulting the statutes	8
Reading a summary	9
Consulting the cases	10
<i>Webster v. Blue Ship Tea Room, Inc.</i>	10
Advising Margaret Fox	14
Drafting the Complaint	17
Advising The Fearless Flounder	18
2 • What Happens During Litigation	19
Background for This Chapter	19
Motion	19
Brief	19
Appeal	19
Basis of appeal	19
Stages of Litigation	20
1. Motion to Dismiss	20
2. Answer	21
3. Motion for Judgment on the Pleadings	22
If Doris Becker filed a motion to dismiss	22
4. Discovery	22
5. Motion for Summary Judgment	23
6. Trial	24
7. Motion for a Directed Verdict	25
8. Jury deliberations	26
9. Motion for Judgment Notwithstanding the Verdict	26
10. Motion for a new trial	26
The Filet of Flounder with Lobster Sauce—After 1989	27
3 • What Lawyers Read	29
Statutes	29
Cases	29
1. Procedural history of the case	30
2. The basis for the appeal—the procedural issue	30
3. The legal theory or theories under which the case has been begun	31

4. The element of the cause of action at issue in the case— the substantive issue	31
5. Facts in the dispute	32
6. The court's decision and its reasoning	33
Example— <i>Webster v. Blue Ship Tea Room, Inc.</i>	33
<i>Webster v. Blue Ship Tea Room, Inc.</i>	34
4 • What Trial Courts Do	39
Element of Sale—State Trial Court	40
<i>Gunning v. Small Feast Caterers, Inc.</i>	40
Element of Merchantability—Federal Trial Court	42
<i>Yong Cha Hong v. Marriott Corporation</i>	42
Diversity jurisdiction	46
The <i>Erie</i> Doctrine	46
Summary judgment	47
Importance of the case	48
Reading the case	49
Certified Question—State	49
<i>Cardozo v. True</i>	49
5 • What Juries Do	55
Motion for Summary Judgment	56
Motion for Judgment as a Matter of Law	57
Appellate court affirms action of trial judge and keeps case from jury	57
<i>Koperwas v. Publix Supermarkets, Inc.</i>	57
Appellate court reverses action of trial judge and sends the case to the jury	59
<i>Hochberg v. O'Donnell's Restaurant, Inc.</i>	59
Renewal of Motion for Judgment after Trial (JNOV)	61
Appellate court reverses the decision negating the verdict of the jury	61
Judge as fact finder	66
<i>Ford v. Miller Meat Co.</i>	66
6 • What Appellate Courts Do	69
Appellate Courts Set Precedent	69
<i>Williams v. Braum Ice Cream Stores, Inc.</i>	70
Importance of the case	72

Appellate Courts Assume Precedent	72
<i>O'Dell v. DeJean's Packing Co., Inc.</i>	73
Importance of the case	78
Appellate Courts Follow Precedent	78
Tenth District	78
<i>Thompson v. Lawson Milk Company</i>	79
Eighth District	82
<i>Ruvolo v. Homovich</i>	82
<i>Parianos v. Bruegger's Bagel Bakery</i>	84
7 • What Courts of Last Resort Do	87
Conflict in the Jurisdictions	87
1. <i>Mix v. Ingersoll Candy Co.</i>	88
2. <i>Evart v. Suli Court of Appeal</i>	88
3. <i>Mexicali Rose v. Superior Court</i>	88
4. <i>Mexicali Rose v. Superior Court</i>	89
Specifically Changing Precedent	89
<i>Goodman v. Wenco Foods, Inc.</i>	91
Clarifying a Precedent	93
<i>Phillips v. Town of West Springfield</i>	93
8 • Reading Cases in Casebooks	97
1. Read something about the subject matter of the chapter or section before you read any cases	98
2. Read whole sections of chapters before you take notes on any case	99
3. Don't agonize over any case	100
4. Don't take too many notes	100
Merchant	102
<i>Wentzel v. Berliner</i>	102
Sale	103
<i>Levondosky v. Marina Associates</i>	103
Merchantability	106
<i>Mix v. Ingersoll Candy Co.</i>	106
<i>Carl v. Dixie Co.</i>	109
<i>Nadeau v. Bostonian Fishery, Inc.</i>	110
9 • Organizing Your Reading	115
Organizing for Legal Writing	115

10 • Law School Exams	127
The Basics	127
The Complications	135
11 • Where You Are Now	145
Appendix	147
1. Jurisdiction	147
2. Precedent	147
3. Like Facts	148
4. Definitions and Recipes	148
<i>Foss v. Carpenter Enterprises, Inc.</i>	148
<i>Feingold v. Town Lyne House, Inc.</i>	151
<i>O'Brien v. Dora Ferguson Catering</i>	155
<i>Williams v. Roche Brothers Supermarkets, Inc.</i>	159
<i>Jackson v. Bumble Bee Seafoods, Inc.</i>	162
Practice Questions	164
Answers	166

Introduction to the First Edition

Why I Wrote This Book

1. To provide information about the legal system

Law schools do not require that their entering students have any specific knowledge of the law. Unfortunately, in order to understand their assignments for the first day of law school, students need to be familiar with fundamental legal principles and legal terminology as well as know information about the court systems and the trial and appellate processes. Students at most law schools must spend a great deal of time during the first semester trying to fill in the gaps in their basic knowledge at the same time that they are trying to cope with their course work. No wonder that most are exhausted and discouraged.

Students do not need in-depth knowledge of the legal system to be ready for the first day of law school. There are three years to learn the details. They just need the basics. The first reason I wrote this book is to provide those essential basics.

2. To provide information about the study skills necessary for success

When I first started working at law schools, I was hired to work in the Spring with students who had not done well on first semester exams. I soon realized that most of the students had worked very hard and had learned enough law to do well. What they hadn't learned was that law school exams are different from any other exams they had taken and doing well requires some specific study and exam preparation techniques. Unless told otherwise, students who

have had success in other academic settings have no reason to believe that they need to study differently in law school. Sometimes it is not until they do poorly on first semester exams that they understand that they need help.

Most students can be successful if they know what preparation is required. Therefore, the second reason for writing this book is to tell students about study and exam preparation techniques before their first exams. All students should know how to demonstrate what they have learned.

Why You Should Read This Book

First year success is more important to law students than to students in any other graduate program. Selection for law review is often dependent on grades. Law firms are usually conservative and often rely almost exclusively on grades to determine to whom to make an offer. Therefore, some very promising students are cut off from opportunities simply because they do not know how to succeed in law school. This book contains what you need to know so that you can do well enough in law school to achieve your goals.

What You Should Know About the Book

The “Voices”

This book is based on a course I taught for many years. The chapters that contain basic law related information rarely include the word “I.” However, the chapters that contain study and exam preparation techniques are based on my experience in teaching and working with individual students. In these chapters I often refer to suggestions that have worked for me and others, and I also include samples from the course.

The Topic

When you read the book, you may be surprised by the fact that the events that resulted in the cases being tried are rather mundane. All of the cases you will read are about people who have been injured by something in food, either in their restaurant meals or in processed food. You will read about people who have been injured by a bone in fish chowder, a bone in a fish fillet, and even a pearl in canned oysters. The injured parties are all suing the merchants who

sold them the food under one legal theory found in the Uniform Commercial Code called the implied warranty of merchantability.

You should know that the case at the heart of this book (*Webster v. Blue Ship Tea Room, Inc.*) created problems for generations of Massachusetts lawyers as you will see in Chapter One. In 1989 the Supreme Judicial Court decided a case which clarified the unresolved issues in *Webster*. However, this action by the court did not decrease the effectiveness of *Webster* as a teaching tool nor its appeal to law school teachers and students.

The reason I have chosen such an easy subject is that I want you to be able to concentrate on learning about the law. All of us have eaten in restaurants and consumed canned or frozen food from the supermarket. Although the subject matter is easy, the legal concepts in the cases are not, and there are many scholarly articles written about what one such article calls “chicken bone law.”

The Simplified Explanations

Some legal concepts may seem clear in this book because they are introduced in only one area. In your first year courses, you may find that they are quite complex. However, it is impossible to understand the complexities at the beginning of your law school experience. Now you need a basic understanding of legal concepts and vocabulary so that you can have the foundation upon which to build a more sophisticated understanding. This book is meant to give you enough of an introduction to the law and law school so that you can begin speaking and writing like a member of the legal community immediately.

What This Book Doesn't Cover

This book contains no information about the criminal law. You will take a course in criminal law and another in criminal procedure early in your law school career. The concepts in this book will be of most use to you in your Contracts, Torts, and Property courses.

Introduction to the Second Edition

There was little from the first edition of this book that I wanted to change. There was, however, much that I wanted to add. Since the first edition was published, I have been a full time faculty member at three different law schools, teaching doctrinal courses and legal writing in addition to conducting academic support sessions. It became clear to me that first year law students often didn't realize that the case reading to prepare for exams is different from the case reading to prepare for writing a legal memo or brief. Many students used the same technique for both, but the technique served neither purpose well.

This book is about 50% longer than the first edition because I have tried to prepare students for legal writing as well as exams. There are now chapters on trial courts, juries, appellate courts and courts of last resort to help students understand the role each tier of the court system plays. This is very important in a legal writing course, but it is often irrelevant in a doctrinal course. If you are using the book as preparation for both legal writing and casebook courses, you might want to read the "Organizing for Legal Writing" section of Chapter 10 right after Chapter 8 and the "Organizing for Exams" section after Chapter 9. If you are interested only in exams, read only "Organizing for Exams" after Chapter 9. I hope this new edition will give students the background they need to start off right in law school.

Introduction to the Third Edition

The first edition of this book concentrated on the skills necessary to prepare for exams in doctrinal courses. The second edition added material about the role of judge, jury and the courts important in legal writing courses. Because most law students take both doctrinal and legal writing courses in their first semester, the most important change in this third edition is the addition of a comprehensive chapter entitled “Organizing Your Reading” to focus on how preparation for exams in doctrinal courses needs to be different from the preparation for writing a legal writing assignment. The chapter is divided into two parts, the first focusing on successful notetaking and outlining methods for a legal writing assignment, and the second on notetaking and outlining methods in preparing for an exam in a doctrinal course. The students who understand the skills presented in this chapter will indeed increase their chances of starting off right in law school.

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