



The Complete Legal Writer







The Complete Legal Writer

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Contents

Preface

What's Familiar in <i>The Complete Legal Writer</i>	xvi
Legal Authorities	xvi
Legal Analysis	xvi
Writing Process	xvi
Samples of Briefs, Emails, Letters, Memos, and More	xvi
What's New in <i>The Complete Legal Writer</i>	xvii
The Genre Discovery Approach	xvii
The Genres Covered	xvii
Research and Citation	xviii
Giving and Receiving Feedback	xviii
Additional Teacher and Student Support	xix
Acknowledgments	xix

Part 1 Legal Foundations

Chapter 1 · Legal Discourse

I. Welcome to Legal Communication	3
A. Legal Discourse Is Strange	3
B. Legal Documents Are Strange	4
II. Use the Rhetorical Triangle	5
A. Audience: Whom Are You Writing For?	6
B. Purpose: What Is Your Document's Function?	7
C. Persona: How Do You Want to Come Across?	7
III. Pair Claims with Authorities	8

Chapter 2 · Legal Authorities

I. Welcome to Legal Authorities	11
A. Legal Authorities Are Primary or Secondary	12
B. Read Citations to Assess the Weight of Legal Authorities	12
II. Federal Primary Authorities	13
A. Parallel Systems of Government	13
B. The Federal Legislative Branch	14
C. The Federal Executive Branch	15
D. The Federal Judicial Branch	16
Federal Trial Courts	16
Federal Appellate Courts	18

U.S. Supreme Court	20
E. Federal Citations in the Wild	21
III. State Primary Authorities	21
A. Parallel Universes	22
B. State Legislative Branches	22
C. State Executive Branches	23
D. State Judicial Branches	23
E. State Citations in the Wild	26
Chapter 3 · Legal Genres	27
I. Identify a Legal Document's Genre	27
II. Identify the Genre's Audience	28
III. Locate Strong Samples of the Genre	29
IV. Create a Document Map	30
V. Put It All Together and Write	33
A. Outline the Document Parts	33
B. Write the Easy Parts, Then Outline the Harder Parts	34
C. Turn Your Outline into Text	34
D. Apply Formatting Conventions	34
Chapter 4 · Legal Logic	35
I. The Golden Rule: Explain Before You Apply	35
II. Basic Legal Logic: Syllogisms	36
III. C-RAC and Friends: Legal Syllogisms in Action	37
Chapter 5 · Legal Analysis	39
I. Logical Gaps	40
II. Cut-and-Paste Gap Filling	41
A. Rule Alignment and Determinative Facts	42
B. C-RAC Creation	42
III. Invisible Rule Gap Filling	43
A. Extracting Rules from Case Law	44
B. Rule Synthesis	45
C. Creating C-RACs with Synthesized Rules	46
IV. Analogical Gap Filling	47
A. Analogy Basics	47
B. Extracting Useful Facts from Case Law	51
C. Creating C-RACs with Case Illustrations	52
V. Policy Gap Filling	54
A. Extracting Implicit Policy	54
B. Creating C-RACs with Policy	57
Chapter 6 · Assessing Authorities	59
I. Is This Authority "Good" Support for This Claim?	59
II. Binding Authority and Stare Decisis	60
III. Criteria for Assessing the Weight of Legal Authorities	61
A. Primary or Secondary Authority	61
Guidelines	62
B. Geographic Jurisdiction	62
Guidelines	62
C. Type of Primary Authority	63

CONTENTS

vii

Guidelines	63
D. Recency	63
Guidelines	64
E. Level of Issuing Court (for Cases)	64
Guidelines	65
F. Whether a Case Is Published or Unpublished	65
Guidelines	66
G. Applicability	66
Chapter 7 · Legal Reading	69
I. Rhetorical Analysis of a Judicial Opinion	69
A. Audience	70
B. Purpose	70
C. Persona	71
II. Common Features of a Judicial Opinion	71
A. Header	71
B. Overview	72
C. Summary of the Underlying Facts	72
D. Procedural History	72
E. Identification of the Issues	72
F. Procedural Rules	73
G. Substantive Legal Rules	73
H. Application of the Law to the Facts	73
I. Conclusion	74
J. Disposition	74
III. Effectively Reading a Judicial Opinion	74
A. Read with a Goal	75
B. Get Your Bearings	75
C. Use the Headings	75
D. Annotate Efficiently	76
E. Pull It Together	77
IV. Identifying an Opinion's Holding	77
V. Reading Statutes and Regulations	79
A. Study the Scheme	79
B. Every Word Counts	81
C. Read On	83
Chapter 8 · Analysis Structure	85
I. Unitary Analysis	88
II. Branching Analyses: Elements and Factors	89
III. Cascading Analyses	93
IV. Multi-Issue Analyses	98
Part 2	
Writing Legal Genres	
Chapter 9 · Office Memo	103
I. Read a Sample	103
II. Study the Genre	109
A. Audience	109

B. Purpose	109
C. Persona	110
III. Examine More Samples	110
A. Distinguishing Features	110
B. Read the Samples	111
IV. Create a Document Map	131
Chapter 10 · Email Memo	133
I. Read a Sample	133
II. Study the Genre	135
A. Audience	135
B. Purpose	135
C. Persona	136
III. Examine More Samples	136
A. Distinguishing Features	136
B. Read the Samples	137
IV. Create a Document Map	139
Chapter 11 · Client Letter	141
I. Read a Sample	141
II. Study the Genre	144
A. Audience	144
B. Purpose	144
C. Persona	144
III. Examine More Samples	145
A. Distinguishing Features	145
B. Read the Samples	146
Chapter 12 · Demand Letter	153
I. Read a Sample	153
II. Study the Genre	156
A. Audience	156
B. Purpose	156
C. Persona	156
III. Examine More Samples	157
A. Distinguishing Features	157
B. Read the Samples	157
IV. Create a Document Map	162
Chapter 13 · Complaint	163
I. Read a Sample	163
II. Study the Genre	168
A. Audience	168
B. Purpose	168
C. Persona	169
III. Examine More Samples	169
A. Distinguishing Features	169
B. Read the Samples	170
IV. Create a Document Map	177

Chapter 14 · Trial Motion and Brief	179
I. Read a Sample	179
II. Study the Genre	187
A. Audience	187
B. Purpose	187
C. Persona	187
III. Examine More Samples	188
A. Distinguishing Features	188
B. Read the Samples	189
IV. Create a Document Map	204
Chapter 15 · Motion Hearing	205
I. Examine a Sample	205
II. Study the Genre	205
A. Audience	205
B. Purpose	206
C. Persona	206
III. Examine More Samples	207
A. Distinguishing Features	207
B. Watch the Samples	207
IV. Create a Document Map	208
Chapter 16 · Appellate Brief	209
I. Read a Sample	210
II. Study the Genre	226
A. Audience	226
B. Purpose	226
C. Persona	227
III. Examine More Samples	227
A. Distinguishing Features	227
B. Read the Samples	229
IV. Create a Document Map	254
Chapter 17 · Appellate Oral Argument	255
I. Examine a Sample	256
II. Study the Genre	256
A. Audience	256
B. Purpose	256
C. Persona	257
III. Examine More Samples	257
A. Distinguishing Features	257
B. Watch or Listen to the Samples	259
IV. Create a Document Map	259
Chapter 18 · Appellate Opinion	261
I. Read a Sample	261
II. Study the Genre	269
A. Audience	269
B. Purpose	269
C. Persona	269

III. Examine More Samples	270
A. Distinguishing Features	270
B. Read the Samples	270
IV. Create a Document Map	284
Chapter 19 · Employer Website Blog Post	285
I. Read a Sample	285
II. Study the Genre	286
A. Audience	286
B. Purpose	287
C. Persona	287
III. Examine More Samples	287
A. Distinguishing Features	287
B. Read the Samples	288
IV. Create a Document Map	290
Part 3	
Composing Legal Documents	
Chapter 20 · Determine Document Parts	293
I. Refer to Your Document Map	293
A. What Document Parts Are in Your Samples?	293
B. What Document Parts Seem Flexible?	296
II. Consider Your Audience	296
A. What Document Parts Does Your Audience Mandate?	296
B. Where Does Your Audience Give You Flexibility?	296
III. Assess Court Rules	297
A. Locating Court Rules	297
B. Using Court Rules	297
Chapter 21 · Brainstorm and Outline	299
I. Freewrite	299
A. Freewrite Strategy 1: Timed Writing	300
B. Freewrite Strategy 2: Looping	300
C. Freewrite Strategy 3: Changing Your Medium	300
D. Freewrite Strategy 4: Question-and-Answer	300
II. Outline	301
A. Outline Strategy 1: Argument-Based Outlining	301
B. Outline Strategy 2: Mind-Mapping and Flowcharting	303
C. Outline Strategy 3: Reverse-Outlining	303
III. Research to Write	304
Chapter 22 · Research Authorities	305
I. Kick-Starting Your Research	306
A. Review the Facts	306
B. Review the Law	306
II. Starting with Something	306
A. Expand from What You Know	306
B. Look Inside	307
C. Look Outside	307
D. Generate Search Terms	307

III. Starting with Nothing	307
A. Look Inside	308
B. Look Outside	308
IV. Using a Research Strategy	308
A. Create Your Research Strategy	309
B. Adapt Your Research Strategy	310
V. Locating Legal Authorities	311
A. Research Using Books	311
B. Research Online Using Free Government Databases	312
C. Research Online Using Commercial Legal Databases	312
D. Research Online Using Non-Legal Resources	314
VI. Research Flowchart	314
Chapter 23 · Write Effective Facts	317
I. Sort Your Facts	317
A. Legally Persuasive Facts	317
B. Emotionally Persuasive Facts	318
C. Irrelevant Facts	318
D. Tabbing and Annotating	318
II. Select Facts Appropriate for Your Genre	319
III. Write Procedural History	320
IV. Create a Cast of Characters	320
A. Identify Motivations	320
B. Name and Describe the Characters	321
C. Use Pathos to Your Advantage	321
V. Use Chronology	321
A. Why Follow Chronological Order?	321
B. Why Break Chronological Order?	322
C. Break Chronological Order with “The Swoop”	322
Chapter 24 · Create a Theory of the Case	325
I. What Is a Theory of the Case?	325
II. Craft a Theory of the Case	326
A. Applicable Law	326
B. Undisputed Facts	326
C. Method to Confirm Bias	326
III. Analyze a Theory of the Case	328
A. Theory for the Defense	328
B. Theory for the Prosecution	329
C. Analyzing the Theories	329
IV. Craft a Case Theme	330
Chapter 25 · Organize an Analysis	331
I. Identifying Your Issues	331
II. Selecting an Analysis Structure	332
III. Ordering Your Issues	334
A. Order by Strength	334
B. Order by Rule	335
IV. Crafting Headings	335
A. Part Headings	336

B. Topical Headings	336
C. Point Headings and Subheadings	336
Chapter 26 · Write an Analysis	341
I. Write Procedural Rule Passages	341
A. Understanding Trial and Appellate Standards	342
B. Researching Procedural Rules and Standards	343
C. Organizing Procedural Rules	343
II. Write Your Substantive Rule Passage	345
A. Begin Your Substantive Rule Passage	346
B. Write Your Sub-Rules: Branching Analysis	347
C. Conduct Your Conclusory Analysis	348
D. Preview Your Analyses: Roadmaps	348
III. Write Your C-RAC(s)	349
A. Presenting Your Rules from General to Specific	350
B. Explaining How Your Rules Apply to Your Facts	352
C. Concluding Your C-RACs and Connecting Them Together	354
Tying Together a Branching Analysis	355
Tying Together a Cascading Analysis	355
Chapter 27 · Illustrate Rules	357
I. Determine Whether to Illustrate Rules	357
A. Does the Rule Align with Your Facts?	358
B. Is the Rule Easy to Understand?	358
C. Do You Need to Analogize?	359
II. Illustrate Rules Effectively	359
III. Place Case Illustrations Properly	361
IV. Apply Case Illustrations to Facts	362
Chapter 28 · Cite Authorities	365
I. Cite While You Write	367
A. Use Citation Shortcuts	367
B. Keep a List of Authorities	368
II. Use Signals Effectively	368
A. Familiarize Yourself with Signals	369
B. Use Explanatory Parentheticals	370
C. Develop Judgment About Signals and Parentheticals	371
D. Candor to the Tribunal	371
III. Format Citations Properly	371
A. Using Citation Manuals	372
B. Style Rules in Citation Manuals	375
C. Citing Factual Authorities	375
D. Local Citation Rules	376
Chapter 29 · Arrange Paragraphs and Sentences	377
I. Assess Your Paragraphs	377
A. Topic Sentences	378
B. Create a List	378
C. Paragraph Slip	380
II. Create “Flow”	380
A. The Known-New Technique	380

B. Known-New and Scaffolding	381
C. Ineffective Scaffolding	382
D. Implementing Scaffolding	382
III. Transition Words and Phrases	384
IV. The Arrangement Checklist	385
Chapter 30 · Use Effective Style	387
I. Concision and Precision	387
A. Use Strong Verbs	387
Verb Placement	388
Passive Verbs	388
Nominalized Verbs	389
B. Avoid Ambiguous Language	390
Dummy Subjects	390
Pronouns	390
Misplaced Modifiers	391
Courts	392
II. Legalese	392
A. Tempering Qualifiers	393
B. Intensifiers	394
C. Paired Synonyms	394
III. Tone	395
A. Striking the Right Tone	395
B. Audience Awareness	396
C. Appropriateness and Formality	396
Chapter 31 · Design Clean Documents	399
I. Medium, File Type, and File Name	399
II. Fonts and Headings	400
III. Margins and Spacing	402
IV. Email Considerations	403
A. Email Text Format	403
B. Attachments	403
C. Signatures	403

Part 4 Implementing Feedback

Chapter 32 · Peer Feedback	407
I. Why Peer Feedback?	407
II. Provide Peer Feedback	409
A. First Read-Through: React	409
B. Second Read-Through: Provide a Reverse Outline of the Analysis	410
C. Third Read-Through: Diagnose	411
D. Discuss	412
E. Focus on the Writing, Not the Writer	412
III. Receive Peer Feedback	413
A. Provide Copies	413
B. Provide Plenty of Time	413
C. Read Comments Carefully	413
D. Listen	414

E. Thank Your Partner for the Feedback	414
IV. Conduct Simultaneous Peer Feedback	414
Chapter 33 · Professor and Supervisor Feedback	417
I. Receive Professor Feedback	417
A. Why Your Professor Is Giving You Feedback	417
B. Tips for Interacting with Your Professor	418
II. Receive Supervisor Feedback	418
A. Why Your Supervisor Is Giving You Feedback	418
B. Product Over Process	418
III. Implement Professor or Supervisor Feedback	419
A. Assess Feedback	419
B. Apply Feedback to the Present Document	420
C. Apply Feedback to Future Documents	420
IV. Prepare for a Conference with Your Professor or Supervisor	420
A. Arrive with Materials	420
B. Create an Agenda	421
C. Nail Down Logistics	421
V. Confer with Your Professor or Supervisor	422
A. Be Prepared to Be Wrong	422
B. Get What You Came For	422
C. Take Good Notes	422
Chapter 34 · Self Feedback	423
I. Self-Revision Strategies	423
A. Write a Reverse Outline	423
B. Circle Citations	424
C. Write a Reflection Document	425
II. Self-Editing Strategies	426
A. Read Out Loud	426
B. Read on Paper	426
C. Change the Appearance	426
D. Review Your Personalized Editing Checklist	427
Glossary	429
Index	449

Preface

You're probably familiar with genre fiction such as romance, science fiction, and fantasy. Perhaps you're a fan of a particular genre of movie, like romantic comedy, horror, or superhero. But legal genres? What are those?

This book is built on the premise that all texts can be viewed as genres. A **genre** is a recurring document type that has certain predictable conventions. **Conventions** are the *parts* of a genre and the *ways* that audiences expect a genre to be written. Conventions are like the “rules” of a genre, but these rules are both flexible and ever-changing because the audience's expectations are also flexible and ever-changing (which is one reason why we don't use the term “rules” to refer to genre conventions).

If all texts can be viewed as genres, then all texts can be studied as genres. Because a genre is a *recurring* document type, we can study multiple samples of a genre to figure out what the genre's conventions are. And because the conventions of a genre are *predictable*, we can identify conventions by spotting patterns among sample documents. Then we can use those patterns to write our own documents that follow the conventions of the genre. In fact, lawyers in practice have been writing in this fashion for decades every time they use a sample or “go-by” to help them write an unfamiliar legal document type.

Viewing legal document types as genres allows legal research and writing (LRW) professors to teach legal documents in a fashion LRW professors are familiar with, but with one radical change. Because legal document types are genres, genres and their conventions are discoverable by *anyone* who possesses the skills of discovery. Thus, while we as LRW professors are teaching our students how to write office memos, client letters, and appellate briefs we can—with just a few tweaks to our teaching methods—simultaneously teach students how to discover *any legal document type* in the future. Our students can learn the transferable skill of **genre discovery**: how to study samples of a genre to teach oneself to write an unfamiliar genre.

Armed with genre discovery, our students will know what to do when they encounter a document no one has ever taught them before—either in a future law school course or in the workplace. They will discover the genre's conventions by using samples and turn those conventions into a document that meets the audience's expectations of that genre.

Thus *The Complete Legal Writer* teaches students how to write legal documents they haven't been taught to write, legal documents that we don't have a chance to teach them in our LRW courses. But if we teach them genre discovery, our students will be prepared to write anything.

What's Familiar in *The Complete Legal Writer*

This notion of genre discovery undergirds familiar approaches to teaching legal research and writing. The book provides a foundation for students, explaining concepts that every student needs to learn early in her 1L year, such as legal reasoning and sources of U.S. law. The book also guides students through the writing process, from the earliest brainstorming stages through writing analyses and using effective style.

Thus, professors and students alike will find everything they need in a legal research and writing textbook. Any terms that may be unfamiliar to 1Ls are bolded in the text and defined in an easy-to-use glossary. Our aim was to create an approachable and practical text that would help law students during their 1L year and beyond. Here's how we approached familiar content.

Legal Authorities

The Complete Legal Writer describes the sources of U.S. law, the structure of the U.S. government, and how primary authorities like cases and statutes are created. The book describes in detail the genre of the judicial opinion and provides practical advice for learning to read opinions effectively.

Legal Analysis

The Complete Legal Writer covers many legal reasoning tactics to help students write effectively: syllogistic reasoning, C-RAC and how the structure implements legal logic, analogical reasoning, policy reasoning, extracting rules from authorities, synthesizing rules, applying rules to facts to reach conclusions, and more.

The book uses extended examples throughout the book, making the book more accessible to students because they do not need to relearn facts and law to learn new concepts. The book provides cues for visual learners to accompany the text, such as charts and diagrams, which illustrate the thinking process behind concepts such as extracting and synthesizing.

Writing Process

The Complete Legal Writer provides a robust writing process section, drawing on the authors' expertise in composition theory. The writing process section begins with the very beginning of writing a document, including steps such as brainstorming and outlining, and works through the steps of writing a legal document, ending with considerations such as style, revision, and document design (e.g., font selection, margins, and writing for digital formats).

Samples of Briefs, Emails, Letters, Memos, and More

For every genre covered in *The Complete Legal Writer*, the book provides three samples of the genre. Because the genre discovery approach relies heavily on samples, each sample was carefully drafted by the authors and is of exacting quality.

What's New in *The Complete Legal Writer*

In addition to the familiar material that legal research and writing textbooks need, *The Complete Legal Writer* provides many innovations for legal research and writing professors to help their students succeed.

The Genre Discovery Approach

The Complete Legal Writer uses the genre discovery approach to teach law students how to write: it teaches students to *guide themselves* through the process of writing unfamiliar legal documents. Using this inductive method, the book coaches students through finding samples of a document type (a genre), analyzing the samples to discover what they have in common, and then using these discoveries to write their own legal documents.

To aid in this process, the book provides three samples for each type of document covered in Part 2 of the book. (Furthermore, because the process works with any sample, professors can—but need not—supplement the textbook with more samples of their own.) And because samples are such a crucial part of the teaching of genre discovery, the samples in *The Complete Legal Writer* are of exacting quality.

Furthermore, the samples follow two interesting cases through the litigation process, beginning with office memos and continuing all the way through appellate opinions and even blog posts about those opinions. (See “The Genres Covered,” next.) The law of the genres is accessible, the facts are memorable, and the recurrence of the cases from chapter to chapter reduces the cognitive load on students. Students can focus on the genres themselves, rather than on learning new law for each new genre.

The Genres Covered

The genres covered in Part 2 of *The Complete Legal Writer* follow the litigation life cycle. The book covers eleven genres, with three samples provided for each genre.

The first genres assess a case prior to filing a complaint or a motion: office memo, email memo, client letter, and demand letter. Next are the documents that lawyers file with courts at the trial level: complaint, trial motion and brief, and motion hearing. Lastly are appellate genres: appellate brief, appellate oral argument, and appellate opinion. Included throughout are oral and judicial genres. Also included is the Employer Website Blog Post (Chapter 19), a genre that lawyers use to announce trial outcomes and comment on recent developments in the law.

Each chapter in Part 2 is structured the same way. Each begins with a rhetorical analysis of the genre, examining audience, purpose, and persona. Each then presents three samples of the genre. As discussed previously, in order to reduce the cognitive load on students, the three samples in every project chapter tend to track the same three clients. Thus, the client 1 sample in the office memo chapter contains the same facts and law as the client 1 sample in the email memo chapter, and so on. Lastly each chapter guides readers through the process of genre discovery that readers first learn about in Chapter 3, Legal Genres.

Rather than thinking of genres as “objective” or “persuasive,” the book encourages students to think of them in terms of audience. Who is the target audience of your

document? Who else will be reading or hearing it—in other words, who are your secondary audiences? Is the genre intended for an insider audience (those on your side of litigation) or an outsider audience?

Naturally, we do not expect professors to teach every genre covered in this book in a single course. But we do believe it is important that professors be able to choose from a wide variety of document types when designing their courses, and that they be able to use the same book across multiple semesters to save on student costs.

By that same token, this wide coverage also makes *The Complete Legal Writer* useful as an upper-division writing textbook. It would work well, for example, in legal research and writing programs that have a three-semester course. It will also serve law students well as they move into practice. Indeed, if upper-level students are unfamiliar with the genre discovery approach, then *The Complete Legal Writer* can teach them this valuable transferrable skill. Plus, the book provides a good refresher on citation, research, and legal analysis.

Research and Citation

The Complete Legal Writer presents research and citation as integrated components of the writing process by helping students develop “citation literacy” early in their law school careers. The book also teaches students how to integrate citations into their research and writing. It focuses on the important roles that citations play in legal documents, such as helping build the credibility of the writer in the eye of the reader. Students learn to cite while they learn to write, in a scaled fashion, thus tempering the frustration that often accompanies learning legal citation.

The Complete Legal Writer integrates research into the legal reasoning and writing process rather than treating it as an independent process. In Chapter 2, Legal Authorities, the book introduces sources of law. Then, in Chapter 6, Assessing Authorities, after students have been introduced to legal logic and analysis, students learn how to tell if an authority provides strong support for a legal assertion. Chapter 7, Legal Reading, provides a primer on how to read court opinions and statutes to find authorities for legal assertions. Thus, before students have finished reading Part I of the book, they will have a firm grasp of where law comes from, how to assess its weight, and how to read it and use it in their own writing.

In Part 3, Composing Legal Documents, students put this knowledge to work by writing their own documents. Chapter 21, Brainstorm and Outline, teaches research as a recursive step when writing a legal document, encouraging students to “research to write” when they get writer’s block, for example. Chapter 22, Research Authorities, offers in-depth coverage of research strategies that can be adapted to whatever legal question a student must answer. Chapter 28, Cite Authorities, explains how to keep track of citations while writing, how to use signals and explanatory parentheticals to provide accurate support for claims, and how to use citation manuals like *The Bluebook* or the *ALWD Guide* to format citations.

Giving and Receiving Feedback

The Complete Legal Writer covers a skill that is essential for all legal writers: giving and receiving feedback. The book explains how to give feedback to and receive feedback from

peers, an important skill given the rise of peer-review practices in the legal research and writing classroom.

The book also covers how to receive feedback from professors and workplace supervisors. It teaches students how to effectively implement feedback that they receive on particular documents to improve both those documents and future documents. It also teaches students how to prepare for conferences with professors and with workplace supervisors.

Additional Teacher and Student Support

To support teaching with and learning from *The Complete Legal Writer*, we provide a robust Teacher's Manual. We also provide a Companion Website (completelegalwriter.com) with materials developed by us, the authors, to support professors and students.

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