

Lawyering & Legal Writing



General Information and Resources

2025/2026

**A Message from Professor Leslie Newman,
Director of Lawyering & Legal Writing**



Clear and concise writing is a powerful tool for achieving excellence in law school and in the legal profession. **The Lawyering & Legal Writing Center** provides Cardozo students with in-depth instruction in legal writing, research, legal analysis, and lawyering skills.

In addition to the documents provided in this Lawyering & Legal Writing Resource Guide, our first year Lawyering & Legal Writing course and advanced writing courses for J.D. and LL.M. students, the Center support individual students' development throughout their law school careers in conjunction with the Law Library and the Office of Academic Success.

To download the Center's documents for effective legal writing, research, citation, outlining, exam preparation and other subjects, see the Center's website.

Please feel free to contact me at newman@yu.edu or Administrative Director Peter Walsh at pwalsh@yu.edu.

Student Guidelines for Email Communication

Effective email communication is an essential lawyering skill. Therefore, as part of your instruction in this course, email communications to your Lawyering and Legal Writing professor must meet the following general guidelines, in addition to any specific requirements your professor may impose. Further, these guidelines will help in your communications with other faculty, administrators, employers, and colleagues.

1. Use only your YU email account for all correspondence with your professor. Many law firms and other organizations employ stringent email policies and spam filters that may prohibit or delay delivery of emails from personal email accounts.
2. If for any reason, you use a personal e-mail account, think about the address you use. For example, using an address like bunkie@fun.com would not be a professional way to communicate with your professors or with prospective employers.
3. Give the email a subject line that is informative of the issue presented in the body of the email.
4. Include your full name and the name of your class and class section in every email.
5. Treat emails to professors as you would formal letters. Despite the ease and accessibility that email provides, this type of communication between student and professor should never be viewed as informal. Begin every email with “Dear Professor” or “Hello Professor,” and end every email with a proper parting sentiment, e.g., “Best,” or “Sincerely.” Never begin an email with “Hey,” do not address your professor by their first name, and never begin an email without any salutation. Always check the “To:” and “Cc:” lines before sending e-mails, particularly if you use the automatic fill-in feature from your address book. Do not use all capitals or all lowercase letters, or slang terms or shorthand references or usage. Use professional language with appropriate grammar and punctuation in complete sentences.
6. Think twice before you email your professor. If you can find the information you seek elsewhere, do so. If you can ask the question in class, or of your section’s Teaching Assistant, or of a librarian, do so.
7. Email correspondence is prone to miscommunication. Even when unintentional, the misuse of email can lead to misunderstandings and other problems. Some students have needlessly missed both academic and professional opportunities through inappropriate use of email. Remember that tone of voice can be distorted by the nature of email. Jokes can be taken seriously, sincere comments can be misconstrued as light-hearted, and mild irritation can read as anger. Misunderstandings cannot be easily corrected. Review all email communications before they are sent. Try to compose your thoughts and refrain from writing emails while upset or angry.
8. Ben Franklin advised: “Do not do that which you would not have known.” Do not ever send any email that you would not want to see published or disseminated. Think twice before you click the “Send” button. **Similarly, be aware that prospective employers (and sometimes faculty) may check students’ on-line presence in blogs, publications, activities, and social networking sites for more information about you; consider the information and impression you present about yourself through these venues and on these sites accordingly.**

9. Do not email your professor in any personal way about your classmates. If a conflict between you and a fellow student should arise specifically related to the course, arrange to discuss this in person with your professor.

10. Do not ever include your professor's email address in a mass-mailing list.

11. If you have questions that may require long answers or involve follow-up questions, try to save them for in-person discussion with your professor, either in class or privately. Consider the possibility that your communication or question may prompt a faculty member to communicate information to the entire class.

12. Factor in a reasonable amount of time for your professor to respond to you. Faculty response time may vary depending on the professor, your question, and the particular circumstances in the course at any given time.

Plagiarism

Plagiarism is “[t]he act or an instance of copying or stealing another’s words or ideas and attributing them as one’s own.”¹ Because plagiarism is an ethical offense, disciplinary actions are most often enforced through academic or professional authorities (including state bar examiners) instead of courts. However, if for example, the plagiarized work is protected by copyright, then in addition to academic or professional discipline, legal action may be taken for copyright infringement.² Additionally, in some instances, discipline can include court-imposed sanctions.³

The Benjamin N. Cardozo School of Law holds students to the highest standards of academic integrity and warns students that plagiarism is taken seriously. The law school utilizes services that electronically check student papers for evidence of plagiarism. Student papers submitted to the service become part of its database for purposes of checking future papers. Cardozo reserves the right to require all students’ papers to be submitted in electronic form, so that they can be processed by for review.⁴

Further, the law school lists the following as acts that may result in disciplinary action:

Plagiarizing the work of another person in any area of a student’s work, including but not limited to, papers, journal Notes, writing competitions, legal writing assignments, research projects, and competitions sponsored either by the law school or an outside organization, business or agency. Plagiarism includes, but is not limited to:

- a. Representing work completed by or with the assistance of another person as the student’s own work;
- b. Failing to attribute to its source any quotation, paraphrase, particular facts or information, or ideas taken from that source.⁵

Plagiarism can also have serious effects long after law school. Knowledge that a person has plagiarized can cause a major setback in a person's career as well as call into question other issues of a person's character. If plagiarism in law school is reported to the bar examiners, it can create serious difficulties, or even a complete barrier to bar admission.

Proper and full acknowledgement of the original source of information, however, alleviates the concern of being accused of plagiarism. For this reason, students should not be afraid to use published materials in support of their own writing. In fact, when writing a Note for a journal, an essay, completing a research project, or any other form of writing, students should use the statements and ideas of established authority to support their own arguments. Further, as practicing attorneys, analysis of case law and statutes, including citation to precedent, is what judges look for and expect in all submitted written work. Using established ideas is second nature in law. One simply must

¹ BLACK’S LAW DICTIONARY

² See *id.* (citing PAUL GOLDSTEIN, COPYRIGHT’S HIGHWAY 12 (1994)).

³ See, e.g., *In re Lamberis*, 443 N.E.2d 549 (Ill. 1982) (attorney who plagiarized significant portion of his thesis paper while obtaining his L.L.M. degree was censured by the court for engaging in deceitful conduct as prohibited by the state’s professional responsibility code).

⁴ OFFICE OF STUDENT SERVICES, BENJAMIN N. CARDOZO SCHOOL OF LAW, STUDENT HANDBOOK.

⁵ See all HANDBOOK references to the Disciplinary Code, Rules and Procedures.

remember to give full, accurate and proper credit to the original source. *Always cite and acknowledge fully and completely direct quotations, paraphrased words, facts and ideas, as well as conceptualizations and analyses based on other sources.*⁶

The Association of American Law Schools provides guidance to law school professors regarding when and how to properly acknowledge another's work. "When another's scholarship is used - whether that of another professor or that of a student - it should be fairly summarized and candidly acknowledged. . . . Publication permits at least three ways of doing this: shared authorship, attribution by footnote or endnote, and discussion of another's contribution within the main text."⁷ Whenever citing another's works, students should refer to the current edition of THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION. This intensive compilation informs students how to properly cite sources that may be used in their research. As a general rule, if a student has any question as to whether citation would be proper, always cite.

Common Examples of Student Plagiarism and How to Avoid These Mistakes

One very common form of plagiarism seen in law school papers is when a student cites to a source, properly attributing recognition, but in the next sentence, or within the rest of the paragraph or paper, use language from the same source previously cited without continuing to attribute proper author recognition. Proper attribution requires making sure that every sentence is properly footnoted or cited. If a second sentence follows from the idea of the first sentence, and that idea was formulated because of someone else's work, then cite again to the proper authority. Students should not be afraid to cite liberally in their research assignments or Notes.

If paraphrasing another's work, if the student is using specific language, even if it is not a full sentence, quotation marks must be utilized. As a general rule, if taking five or more consecutive words from a sentence, then quotation marks should be used. Sometimes, however, even one word will require quotation marks. Conceptual reliance on the work of another must also be attributed, even where it is not done with specific language appropriation.

In order to best avoid plagiarism, students should begin properly citing at the research and note-taking stage. Make sure to properly quote sources and cite references next to all research notes. Remember that ideas formulated through another's work without proper acknowledgment to that work is also plagiarism. Therefore, even when paraphrasing and when not directly quoting, but instead, taking ideas, one should cite to the material being used. This way, when writing the final draft, original sources can be easily cited. Do not try to start citing references and ideas for the first time when writing the final draft.⁸ Unfortunately, sloppy work can often result in accusations of plagiarism. Careful citing at the research stage can help to avoid this from happening.

The internet has made it easier to research, but also easier to detect plagiarism. Professors are finding that by putting key phrases of a student's paper into internet searches, they can easily discover when a student is plagiarizing.⁹ Students must be aware of what plagiarism entails. Remember that it is not only permissible for students, scholars and attorneys to use direct language, and facts and

⁶ See Avoiding Plagiarism in Law School: A Student's Guide To Sources and Their Acknowledgment (copied from Robert Brill, *Plagiarism in Law School: Close Resemblance of the Worst Kind?*, 31 SANTA CLARA L. REV. 103 (1990) [hereinafter Avoiding Plagiarism in Law School]).

⁷ The Association of American Law Schools, *Statement of Good Practices by Law Professors in the Discharge of Their Ethical and Professional Responsibilities* (Nov. 17, 1989) (providing "guidance to law professors . . . because law professors serve as important role models for law students"), available at www.aals.org/ethic.html.

⁸ See Avoiding Plagiarism in Law School, *supra* note 6.

⁹ See Laney, *supra* note 6 at 41.

ideas of works not their own, it is expected in the legal environment and enhances the authority and credibility of the work. What is unethical, however, is not properly, completely and directly acknowledging each and every source of information, ideas, organization and language.

This memorandum refers students to the law school Student Handbook, incorporates by reference all provisions of the Student Handbook, and is designed to be a quick guide and reminder to students on the issues of plagiarism and ethics in research, writing and scholarship. It does not provide the exclusive or even an exhaustive discussion of all aspects of these issues. Knowledge of all the law school's rules on plagiarism and ethical attribution of sources in all work is imputed to all students. Ask for guidance if you have questions. Avoid jeopardizing your legal education and career in any way through sloppy research, writing or citation methods. When in doubt, cite. Attribution of all sources, whether specifically in quotes, or for their conceptual contribution, is the surest path to ethical research, writing, exam-taking and scholarship.

Cardozo's Policy on Plagiarism

The following is excerpted from the **Benjamin N. Cardozo School of Law's** Disciplinary Code. Please see your copy of the Disciplinary Code in the Student Handbook for complete information.

Article I: Grounds for Disciplinary Action

2. Plagiarizing the work of another person in any area of a student's work, including but not limited to, papers, journal notes, writing competitions, legal writing assignments, research projects, and competitions sponsored either by the law school or an outside organization, business or agency.

Plagiarism includes, but is not limited to:

- a. Representing work completed by or with the assistance of another person as the student's own work;
- b. Failing to attribute to its source any quotation, paraphrase, particular facts or information, or ideas taken from that source.

Legal Research Policy for Students in the First Year *Lawyering & Legal Writing* Course

Legal research, including the use of electronic platforms, is taught through a combination of librarian instruction, in-class instruction, teaching assistant support, research exercises and modules, and assignments and feedback.

Students receive access to electronic research platforms at Orientation. Students also may use the library's physical resources and on-line catalog to identify and locate additional resources. It is expected that students will make use of access to these resources whenever useful, though it is within the discretion of the course and each writing faculty member to decide when to allow and accept the use of materials acquired from different sources and platforms.

It is the Lawyering and Legal Writing program's policy that use of and facility with multiple sources and methods of research results in the best preparation for work in law school and for professional success.

Students must abide by the following guidelines in research, writing and citation:

- In all research, students are expected to work independently unless explicitly authorized to work collaboratively;
- Co-authorship and dependency on the ideas and conceptualizations of another author for the development of a response, argument or concept must always be acknowledged, attributed, cited and quoted. (Note: plagiarism may be defined as using the ideas or writing of another – including all electronic platforms and resources - as one's own and the use of any outside source without proper acknowledgment.) All sources must be attributed. This includes, but is not limited to case law, statutes, articles, publications, and platforms, including all Artificial Intelligence (AI) platforms and resources;
- Any help with writing, whether from inside or outside of the law school, (including with concept, editing, or citation checking for example), as with research, must be acknowledged and attributed; and
- Use of any prohibited or unauthorized research, writing or citation tools is unethical.

Lawyering and Legal Writing

AI Policy

Ethical use of all AI tools and platforms requires learning how to research, analyze, cite to and write about the law independently, reliably, and comprehensively.

Use of EXTRACTIVE AI tools such as Lexis, Westlaw, Bloomberg, and Google Scholar is authorized use in most settings for most assignments. **Follow individual faculty instructions at all times.**

Use of GENERATIVE AI tools such as ChatCPT, Microsoft Bing ChatGPT, and Lexis+AI as a starting point and secondary source for legal research searches may be authorized in some settings for some assignments. **Follow individual faculty instructions at all times.**

Use of GENERATIVE AI tools such as ChatGPT and Microsoft Bing ChatGPT **is prohibited at all times for drafting of all course assignments** including case briefs, research outlines, memoranda, letters, litigation documents, case notes, and appellate briefs. Follow individual faculty instructions at all times.

Failure to follow the law school's rules on Plagiarism and Academic Integrity as contained in the Student Handbook and supplemented in the Lawyering and Legal Writing course including failure to attribute all sources including GENERATIVE AI platforms for secondary research purposes even when use of these platforms is specifically authorized for this purpose constitutes an ethical violation that may result in grade reduction and disciplinary action.

Student Guide:

Understand the Limits: Students should understand the limits of AI and not rely on it for tasks that require human judgment, creativity, or understanding of complex contexts.

Check the Results: Students should always check the results provided by AI and not accept them blindly.

Consider the Ethical Implications: Students should consider the ethical implications of using AI, including issues related to privacy, bias, and accountability.

Guidelines for Case Briefing

A case brief is not a formal legal document. However, as a law student, "briefing" the cases you are reading for your courses will be very helpful to you both in class and later when you are outlining the course material and studying for your examinations. The best way to master case reading and analysis is to prepare case briefs of the cases you read and to take systematic and thorough notes of the discussions of the cases in class. The form of the case brief helps you organize case related information and refer to it easily.

There is not one way to brief a case. Many forms may be used with success. Your Elements textbook suggests one approach. The most important learning and study aid you should be working on in the early days of law school is developing the briefing form that works best for you. It must allow you to distill the important elements of each case quickly and accurately and it must provide you with sufficient information to make it useful in understanding the case, in following the discussion of the case in class, in answering questions about the case if called upon in class, in preparing an outline of the course, and in studying for the course's examination.

The basic outline of the briefs you prepare for the beginning Legal Writing classes is as follows:

1. **Case Heading**. Write out the full and proper citation of the case. The correct citation identifies the case and specifies where it may be found should you want to look up and read a more complete version of the case than is typically provided in your casebook, and it tells you important information about the decision, including the court that decided the case and when it was decided.
2. **Parties**. Identify and provide a very brief description of who sued whom. Who was the plaintiff, defendant, appellant, appellee?
3. **Procedural History and Outcome**. Most decisions you will read are from appellate courts. Include in the procedural history of a statement of how the case arrived at the appellate court whose opinion is now being read and analyzed. Include who won in the lower court, who is appealing and the outcome in this appeal.
4. **Facts**. Include only those facts or parts of the story or dispute of the case that are most important to the opinion you are briefing, the facts most likely to be important in using this case to predict the outcome of a similar controversy.
5. **Issue(s)**. The issue is a comprehensive articulation of the legal question or questions actually before the court presented in the context of the facts of the case. The issue should combine the legal question with some significant facts. When the court answers the question posed, in most instances it has decided the case. The party appealing may be complaining about an error of law that was made by the lower court. Yet, unless that is the primary issue in the case, focus on the substantive legal question raised in the case, not the procedural issue or sub-issue.

6. **Holding**. The holding is the court's legal answer to the question posed in the issue but often is broader than the context from which the question arose. The holding is not the outcome on appeal. The outcome is who won and who lost. The holding is the court's resolution of the issue presented in broader terms than presented in the issue and the application of the rule of law that compelled the result, the decision, in this case. The holding answers the question posed by the issue with more than a simple "yes" or "no." The holding and rule may be the same or very close in some cases. Generally, the rule is the broader legal principle that supports and is derived from the holding. The language of the holding may be framed in the language of the court, although you should be able to state it in your own words as well. Note that particular language of the court does not become the holding simply because the judge might call it that.

7. **Reasoning**. The reasoning is the basis on which the court justifies and explains its decision. It may contain doctrine (the basis in law for the decision), and policy (other factors that may account for the decision).

8. **Notes, Dissents**. This section may be helpful in further explaining additional aspects of the case or in raising questions you want to remember.

Guidelines for Preparing an Outline

Purposes:

- an ongoing learning and studying tool
- a roadmap of the course
- a useful guide for exam preparation; and
- the best way to group material by subject (not by case or chronology of course coverage) for the greatest understanding of the material in a course.

Process:

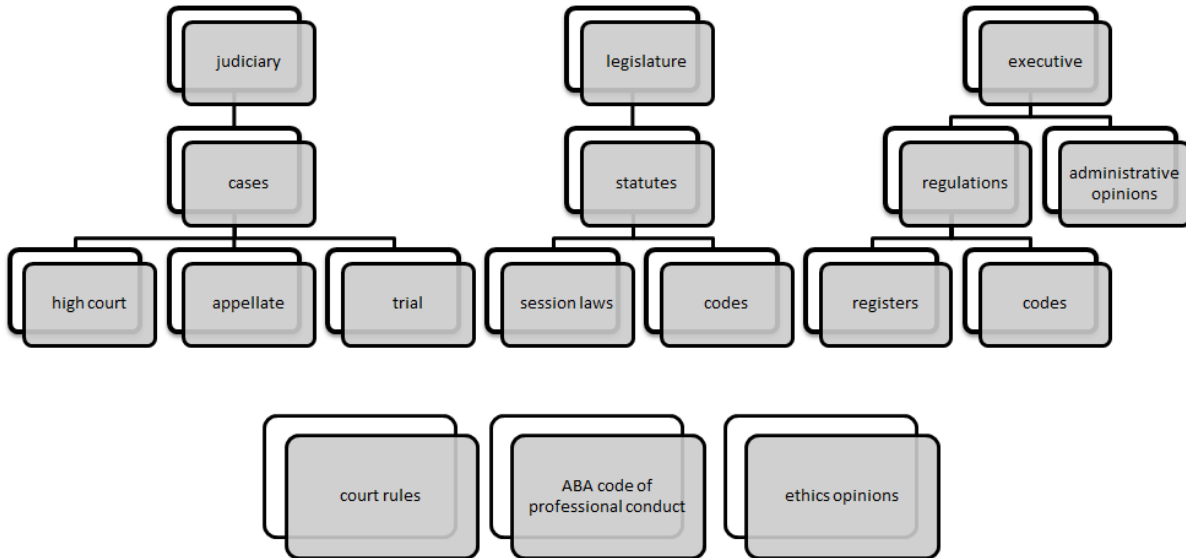
1. Photocopy the extensive table of contents in your doctrinal case book; highlight everything that is assigned and covered in class. This ensures that you focus on those aspects of the subject actually being covered in your course by your professor.
2. Try to use or improve upon the topics and subtopic headings in your case book. If they are reasonable and helpful guides to the subject matter, use them; if they are not substantively helpful, go to other sources such as hornbooks or study guides for headings and subheadings. If your professor provides a syllabus with topic headings, use those headings as your organizational guide to the extent possible.
3. As you identify topics, sub-topics and elements of the topics, include everything you have that corresponds to the specific topic or subject – case briefs, class notes, notes of any outside reading.
4. As you cover topics, increase your understanding and become more sophisticated in your analysis in a course, work to identify the general principles, rules, policies, factors, elements and anything else that comprise the topic. Include all the support material you have covered or considered, such as examples, hypotheticals, notes and questions in your textbook, case facts and outside material. These can be extremely useful and may even make the difference between an adequate and a top answer to an exam question.
5. Use outline form. It helps you organize the material and going over and over it cements the organization into your mind. Stringing along blurbs under headings is not an outline.
6. Consult hornbooks for good articulations of principles. Avoid inserting whole, long passages of others' words, which is too passive a process to be useful. Paraphrasing is better wherever possible.
7. Be wary of the outlines of others. They can never replace the value of preparing your own outline based on the material being covered in your actual class as you are in it. If you consider other outlines, do so with extreme critical judgment. They may be inaccurate or out-of-date.

8. Similarly, use supplements, mass publication guides and commercial outlines and materials only very selectively. Be wary of their coverage of cases even if they cover cases you are reading in your course. They may cover different aspects than highlighted in your class. They have also been known to be inaccurate. They may, however, sometimes be a help conceptually.
9. If you check commercial material for a typically accessible topic-oriented outline or other coverage of subjects, only use the material that corresponds specifically to topics and cases actually being covered in your class.
10. As the semester progresses, repeatedly review your developing outline. Soon, you will start to see ways to pare down some of what you have included. You will see that hours in the first week were spent on material that can be distilled down to a couple of lines with later perspective and understanding.
11. Do not delete examples. They often show the professor's interests and may foreshadow exam question scenarios.
12. Prepare charts and diagrams where they will help elucidate a subject or series of cases.
13. As the end of the semester approaches, start to pare down the outline significantly until by the exam your outline is quite short – short enough to jog your memory, help you if you are able to bring an outline into an open-book exam and remind you of connections. Your outline is a learning tool and every aspect of creating and reviewing it will help you on the last school's mostly closed-book final exams.
14. Keep all versions of your outline.
15. Remember that every single part of the process of working on an outline is part of the process of learning and is called studying.

Guidelines for Proofreading

1. Before starting, make sure you are reviewing your latest draft. Consider whether proofreading electronically or manually works better for you. For some, printing out a document will enable a more critical look.
2. Whether electronically or manually, mark-up your document liberally.
3. Do not skip anything. Read and check every character, every heading, every page number. For example, on a letter, read the date, the inside address, and re-check the spelling of all names of people and places. Similarly, check the spelling and information in all emails before sending them.
4. Be especially careful with the title page, the first page, the first sentence and the first paragraph of your paper, and then, similarly, with the last paragraph, sentence and conclusion, if any; these are places where errors are most noticeable.
5. Watch for errors that appear in section headings, or in capitalized, italicized, or underlined sections. These errors are both easier to miss and more noticeable to the reader.
6. When you find an error, look for another nearby. Errors often occur in clusters. Look for repetitive errors (“statue” for “statute,” which will not be caught by spellcheck functions).
7. Proofread the format as well as the content. Is centering, spacing and indentation consistent throughout the document?
8. Watch for characters that belong in pairs such as quotes, parentheses, and brackets, where the ending character sometime may be missing. Check punctuation. Generally, punctuation goes inside quotation marks and outside parentheses.
9. Be especially careful with numbers, such as dollar amounts, figures, and dates. A missed error can be critical to the meaning and effect of the document. If amounts are expressed in words and figures, make sure they are consistent.
10. Check the sequence of paragraph numbers and letters. If there are any cross references to document sections in the text, make sure they are accurate.
11. If there is a table of contents, make sure that the page numbers are accurate. Check the titles shown in the table of contents with those in the document to make sure that they match exactly.
12. Check citations personally. Do not cite sources you have not read. Double-check page references. Make sure to comply with instructions as to citation form and to maintain an internally consistent citation form. Make sure page references in Tables of Contents and Tables of Authorities match all citations.
13. After the document has been corrected, it must be proofread again to make sure that the corrections were made properly.

Hierarchies of Primary Legal Materials



Guidelines for Legal Research

These guidelines are just that: a *guide* to provide context for your legal research. They are not a checklist or an ordered path you must follow from point to point. Instead, they provide a framework or parameters to orient you as you use legal research tools to learn, understand, and apply the law to your assignments, and in practical terms, to your clients' legal issues.

Page numbers provided below refer to pages in Legal Research in a Nutshell, a required 1L legal writing textbook, which is available at no cost to Cardozo students and faculty through Westlaw's online study aids package.

For more Lawyering and Legal Writing assistance, consult the law library's Resources to Improve Your Legal Research and Writing Skills and other course materials.

As you research the law and work with these guidelines, remember to track your research steps and work with a research grid (<https://cardozolaw.libguides.com/LRWSkillsDev/researchgrids>) to note and keep track of what you know, what you have learned, and what you have left to research.

A. Preparation

1. **Identify the issue(s).** Read the case problem or materials you are given carefully. Based on the facts, focus on the issue(s). There may be both legal and factual issues that need to be resolved. If there is more than one issue, try to determine which issue needs to be researched first. For example, is one issue dependent on the resolution of the other issue?

For ex.: You are asked to research whether, under New York law, a particular criminal defendant was given an excessive sentence for second degree robbery.

You must first find out the sentencing standards for second degree robbery. Next, you need to research the criteria applied to determine whether a sentence is "excessive." Finally, you need to decide whether the facts of your case fit into the statutory and case law governing excessive sentencing.

2. **List relevant legal and factual terms** that relate to the issue(s).

For ex.: Criminal law, sentence, excessive sentence, second degree robbery.

3. **Jurisdiction.** Consider where the problem is taking place to determine what law may apply.

For ex.: New York state law.

B. Research Tools

Research tools will help you locate primary and secondary authority. **Primary authority**, which is binding and the most persuasive authority, includes case law, statutes, regulations, and constitutions. **Secondary authority** includes treatises, law review articles, books, and other commentaries. Secondary authority is not binding on courts but may be persuasive. A good place to start any search is with secondary sources.

1. Encyclopedias and American Law Reports

When you are unfamiliar with a subject, a legal encyclopedia is often the best place to begin.

C.J.S. (Corpus Juris Secundum) and **Am. Jur.** (American Jurisprudence) are national encyclopedias that provide concise summaries of hundreds of legal topics that form a composite, general overview of the law. Footnotes to each entry refer to relevant cases. Use the indexes to the encyclopedias to find topics, using the topic words relevant to your issues. State encyclopedias, such as **New York Jur.**, include similar material, but focus on a particular state's law. Consider encyclopedias a general starting point.

The **American Law Reports (A.L.R)** organize and discuss relevant cases and statutes throughout the country on specific legal issues. A.L.R. annotations provide an in-depth discussion of a selected topic with abundant references organized by outcome and important facts. If the specific topic you are researching happens to be the subject of an A.L.R. annotation, you will find this comprehensive and up-to-date analysis of relevant case law and commentary uniquely informative.

2. Digests

The major digest system is the **key number system**. This digest system consists of topics arranged alphabetically. Each topic is subdivided into subtopics. Each topic and subtopic is assigned a **key number**.

Under each subtopic, short abstracts of relevant cases are provided. These abstracts correspond with **headnotes** preceding the text of decisions. By finding a relevant key number in the digest, you can find cases dealing with that topic. Conversely, if you have a good case and want to find other cases on the same topic, you can check the numbers assigned to the headnotes preceding the case and then look for the same key number in a digest.

A federal digest, state digests for some states, regional digests, and subject matter digests are available. The digests have several indexes, the most helpful of which is the **Descriptive Word Index**, which is an alphabetical outline listing legal and factual terms.

C. Primary Authority

1. Case law

When a court makes a determination about the outcome of a case, it may issue an opinion in which it states the reasons for its decision. Court reports are compilations of these opinions, most often from state and federal appellate courts. The title, volume number and page number of the reporter a case is published in forms the basis of the rules of legal citation. If the publication of court reports is sanctioned by statute or court rule, those reports are referred to as official reports. Other reporters or publications, which reproduce judicial decisions are then referred to as unofficial reports though they may be just as widely used. It is important to note that not all court decisions or opinions are “published” in an official reporter and that many courts have rules regarding citing opinions not specifically marked for “publication.”

(a) State:

In New York the official versions of cases are found in New York Reports (N.Y., N.Y.2d, N.Y.3d, etc.), Appellate Division Reports (A.D., A.D.2d, A.D.3d, etc.) and Miscellaneous Reports (Misc., Misc.2d, Misc.3d, etc.). Additional versions of these decisions may be found in the New York Supplement (N.Y.S., N.Y.S.2d, N.Y.S.3d, etc.).

Other states may use similar systems or may have only an official reporter. Further, regional reporters include cases (generally only highest court decisions) from several states compiled together. Examples of these include the North Eastern (N.E.2d, etc.) and Southern (So.2d, etc) Reporters.

(b) Federal:

Federal district court and circuit court of appeals decisions are also published. District court decisions appear in the **Federal Supplement** (F. Supp., F. Supp. 2d, F. Supp. 3d, etc.) and circuit court decisions appear in the **Federal Reporter** (F., F.2d, F.3d, etc.).

U.S. Supreme Court decisions can be found in several reporters. The official edition of Supreme Court decisions is found in **United States Reports** (U.S.). In addition, there is the **Supreme Court Reporter** (S.Ct.) and **United States Supreme Court Reports, Lawyers' Edition** (L.Ed.).

Note: The preliminary material (summary, syllabus, and headnotes) that appears at the beginning of cases is **not** primary authority and should never be cited or relied upon as such. This is purely editorial material and not actually part of the written decision by the court.

2. Statutes

Always check to see if the issue being researched is governed by state or federal statutes.

Statutes are passed by legislative bodies and published chronologically in the form of individual session or chapter laws that are subsequently re-organized by subject into a publication called a code. The best place to begin looking for a statute is the code (federal or state) where you can find legislative provisions on the same topic codified together.

Codes, like cases, have both official and unofficial versions. The commercially published unofficial editions are often more useful than the official versions, although the official version must be cited in legal documents. Most unofficial editions are **annotated** to include references to court decisions that interpret or apply statutory sections. The annotated versions of codes will provide not only the language of a particular statute but will also lead to relevant cases.

When researching statutory law, start with the subject matter index to the code because a statute's popular name does not necessarily correspond to its subject matter.

(a) State:

Although some states publish unannotated official codes, every state has at least one annotated code. The annotated codes contain case annotations or footnote-like blurbs of relevant cases, analytical notes and references to historical sources, secondary materials such as law review articles, and sometimes attorney general opinions. Each state code has a general index.

In New York the most commonly used statutory compilations are the McKinney's Consolidated Laws of New York Annotated (referred to as just "**McKinney's**") and the New York Consolidated Laws Service commonly referred to as "**CLS.**"

(b) Federal:

The **U.S. Code** is the official compilation of federal statutes. In addition to the actual text of statutes, the U.S. Code also includes historical information, cross-references, and other research aids. The general index is the basic tool for finding statutes by subject in the U.S. Code.

There are also two annotated unofficial editions of the federal statutes: **United States Code Annotated (USCA)**, and **United States Code Service (USCS)**. Like the state annotated codes, these editions provide notes of relevant court decisions, editorial notes and analytical discussions of statutes, and references to legislative history.

3. Administrative Law

Increasingly, legal issues are also affected by state and federal administrative law, which consists of rules and regulations enacted by agencies and agency decisional law. Regulations are often promulgated in order to implement a statute and may explain in more detail the purpose of the statute. Thus, whenever a statute is part of your legal research, you should ascertain whether regulations have been enacted under the authority of that statute.

(a) State:

Nearly all states publish official manuals that provide quick access to information about government agencies and officials including subject compilations of administrative regulations. Decisions of some state agencies are published chronologically in official form. Municipal and local administrative decisions and regulations may be published or obtained from a town clerk or particular agency.

New York's administrative code is called the Official Compilation of Codes, Rules & Regulations of the State of New York and is commonly referred to as the **NYCRR**.

(b) Federal:

The **Federal Register** includes executive orders, administrative regulations, and proposed rules. The Register contains the only complete history of regulations with the text of all changes. A cumulative index to the Register is arranged by agency.

The **Code of Federal Regulations** (CFR) is the codification of federal administrative regulations that arranges regulations by subject matter the organization of which often corresponds to the agency promulgating the regulation. Just like with statutes, it is generally easier to begin regulatory research with the code (CFR) rather than the chronologically-organized Federal Register.

D. Cite Checking (Shepardizing)

Once you have found cases and/or statutes relevant to the legal and factual issues that you are researching, you must check whether the authority is still "good" or current law. Before you cite to and rely upon authority in a legal document, you must make sure that the case decisions have not been reversed by a higher court or overruled by a later decision, and that statutes have not been affected by subsequent legislation or judicial decisions.

Shepard's Citations is a comprehensive system of legal citation updating, which lists later references to case decisions and statutes. There are Shepard's Citations for U.S. Supreme Court decisions, federal circuit and district court decisions, state court decisions, and state and federal statutes. By locating the citation to a particular case or statute you can determine whether the authority has been affected by subsequent law. Use the key to decipher abbreviations and other codes used by Shepard's.

All major research platforms have developed their own electronic citator systems that seamlessly integrate their cite-checking into the case display to indicate whether a case has been overruled, for example. These provide a readily accessible way to review a case's direct history and any negative treatment it may have received from subsequent cases.

Cite checking is also useful in locating case decisions that have cited to and/or discussed the particular decision or statute that you have found. Thus, using a citator is not only necessary to determine whether authority is still good law, but is a good way to find related cases.

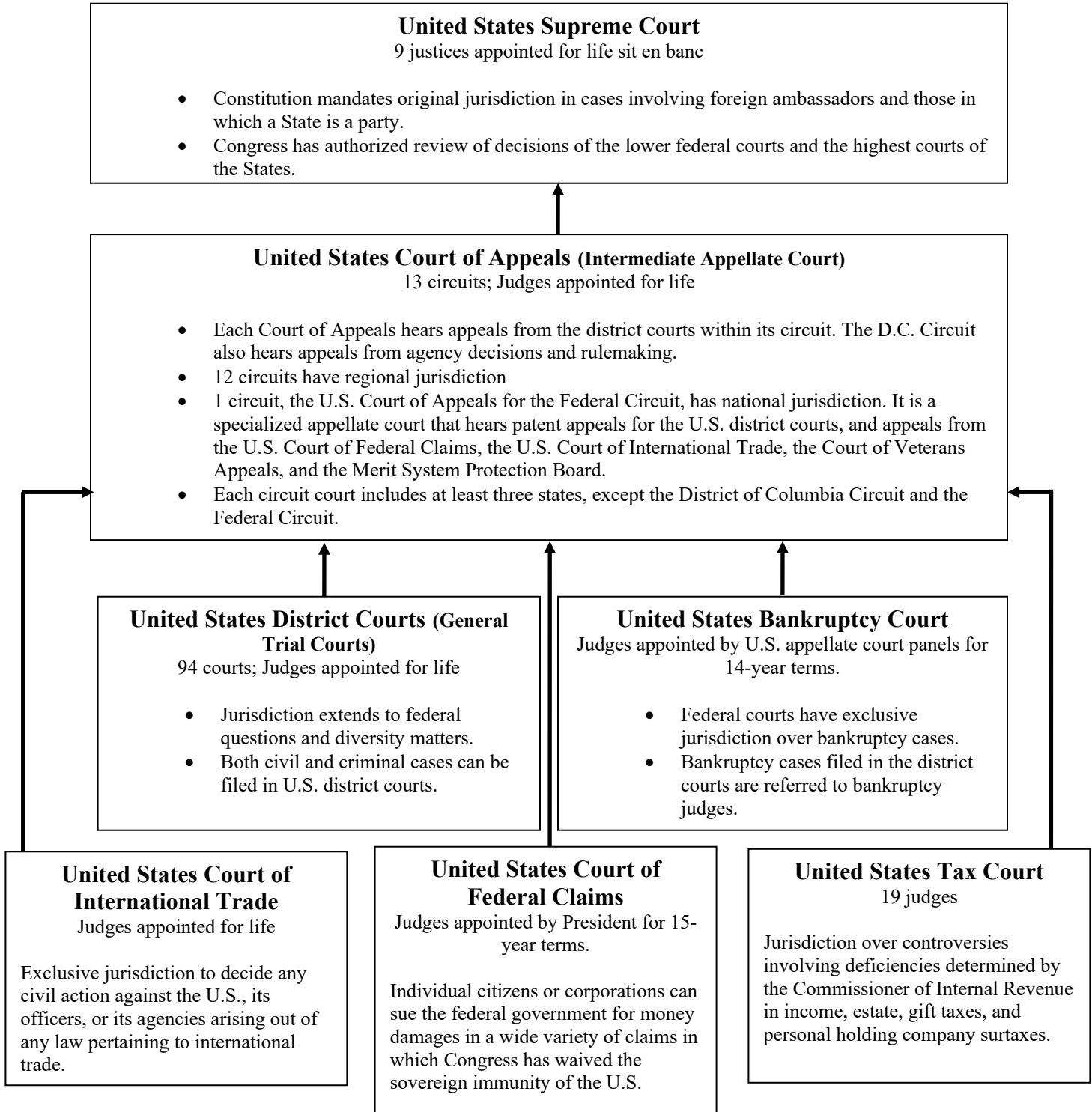
E. Secondary Authority

Cases, statutes, constitutions, and regulations are all primary legal authority you will cite to extensively when submitting documents to a court whereas secondary authority such as research tools (legal encyclopedias, A.L.R. annotations, digests) and beyond that, **treatises, hornbooks, restatements, law review articles, legal periodicals, and other practice commentaries** are secondary authority that are not binding on courts. Secondary sources are critical starting points for research. You should never rely upon secondary authority alone to support a legal premise.

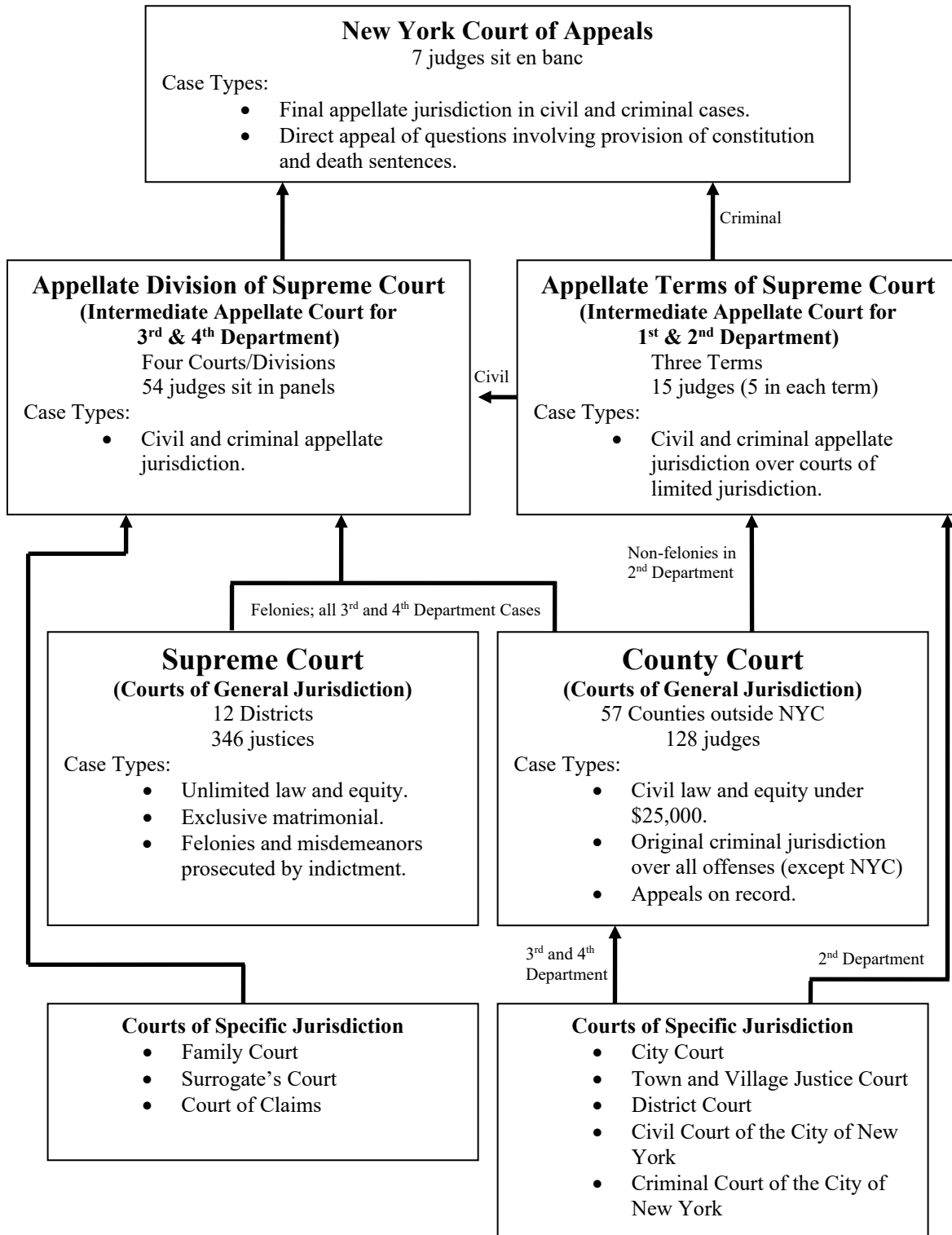
You will learn more about the nature and uses of the individual types of secondary sources available and see firsthand the large role secondary sources play in both legal education and law practice in the context of the Lawyering & Legal Writing course this year. Secondary authority provides an insightful analysis of the law and can be helpful to organize a discussion or argument and to support policy arguments for which primary authority is difficult to find.

For more information on any of the legal resources mentioned above or if you have questions about legal research in general, please stop by the Reference Desk on the 7th floor of the library or contact the Library at lawref@yu.edu.

The Federal Court System



New York State Court Chart



Grammar and Style Grid

1.	That / Which	Examples
1a.	Use that to define a specific antecedent subject; that begins a clause that is essential to the meaning of the sentence (a restrictive clause)	The film <u>that</u> I saw yesterday was good.
1b.	Use which to introduce a non-restrictive clause; it adds extra information – one of several possible attributes of the antecedent – and usually begins a clause that is set off by a comma from the sentence’s main thought	The film, <u>which</u> I saw yesterday, was excellent.
2.	Matching singular / plural nouns, pronouns and verbs	Examples
	Nouns, pronouns and verbs must agree in number and person	<u>Everyone</u> <u>learns</u> from <u>his</u> mistakes. <u>A variety</u> of approaches <u>has</u> been used.
3.	Consistency in verb tenses	Examples
	Ensure that verb tenses are consistent within sentences and within paragraphs	The court held... The court went on to ... The court goes on to... The regulation allows... The regulation goes on to...
4.	Parallel sentence structure	Examples
	If there are two or more phrases or clauses in a sentence, they must follow the same form	Wrong: The notion that legislatures are political while governors decide on the merits... Correct: The notional that <u>legislatures are political</u> while <u>governors are neutral</u> ...
5.	Equivocation	Examples
	Avoid words such as maybe, perhaps, probably, seems. Be direct and clear	Weak: Perhaps the best solution... Strong: The best solution...
6.	Verbiage	Examples
	Do not use more words when fewer will do	Weak: If there is a problem that arises... Strong: If a problem arises...

Punctuation Usage Grid

1.	Apostrophe	Examples
1a.	Indicate possession or ownership * For words such as men, women and children that are not pluralized by adding an s, the possessive is formed as for singular words.	Singular: The <u>boy’s</u> books. Plural: The <u>boys’</u> books. <u>Women’s</u> group
1b.	Indicate plurals of numbers and letters used as words *But, whenever possible, try to form plurals by adding only “s” to numbers and to letters used as words.	The student’s two <u>A’s</u> The <u>ABCs</u>

1c.	Indicate omission of letters in contractions * The only meaning of <i>it's</i> is <i>it is</i> . To show possession, do not use an apostrophe; use <i>its</i> . ** Generally, avoid using contractions.	<u>Can't</u> ; <u>don't</u>
2.	Semicolon	Examples
2a.	Connect two independent but related clauses	That was his final offer; it was not negotiable.
2b.	Connect two independent clauses joined by a conjunctive adverb such as <i>therefore</i> or <i>however</i>	Her response was ambiguous; <u>however</u> , ambiguity was her intention.
2c.	Separate items in a list	The teacher articulated the goal that the students: <u>focus their energies</u> ; <u>organize their thoughts</u> ; and <u>preserve their work in journals</u> .
3.	Colon	Examples
3a.	After the salutation of a formal letter	Dear Ms. Jones:
3b.	To introduce a list	She needed three items: kiwis, apples and pears.
3c.	To indicate something will follow	He had one objective: to finish the race.
3d.	To introduce a quotation (although a comma may also be used)	The doctor told him: "This is not a serious condition."
4.	Comma	Examples
4a.	To set off dates and addresses	On <u>January 12, 2008</u> , <u>they</u> ...
4b.	After the salutation and the closing in an informal letter	"Dear Jacob," or "All the best,"
4c.	To set off an introductory word or phrase	<u>Nevertheless</u> , the judge found for the plaintiff.
4d.	To set off interruptive words or phrases	George, <u>although quite young</u> , was entrusted with great responsibilities.
4e.	To set off appositives (explaining words)	Houdini, <u>the great magician</u> , ...
4f.	Before a conjunction such as <i>but</i> , <i>or</i> , <i>and</i> , or <i>yet</i> , that introduces an independent clause (one that makes sense by itself)	He sought approval, <u>but</u> he pushed people away.
4g.	To set off items in a series * Note that it is a matter of style whether to separate the last two items in a list with a comma.	... <u>apples</u> , <u>kiwis</u> , <u>pears</u> , and <u>grapes</u> .
5.	Parenthesis	Example
	To set off information that is only loosely connected to the main meaning of the sentence * Punctuation that refers to the information in the parenthesis should be within the parenthesis, but the one that relate to the rest of the sentence should be outside.	I thought I was ready for the exam (after all, I had read all my notes).
6.	Quotation Marks	
	Use quotation marks for quotes of forty-nine or fewer words. * Place commas and periods inside quotation marks. ** Quotations of more than fifty words must be indented and presented in block, single spaced form without quotation marks. (See the <i>Bluebook</i> for rules on quotation) *** Always remember to credit the author of a quotation.	

Writing Checklist

Substance

- Identify and understand the legal issues
- Rely on comprehensive research
- Understand the applicable law
- Organize clearly your discussion, analysis, and arguments
- Support your analysis with legal authority
- Ensure your analysis is coherent, clear, precise and concise
- Know and write for your audience**

Sentences and Paragraphs

- Make sure there is subject-verb agreement
- Generally, use close connections between agent and action (or subject and verb) and between action and goal (or verb and object)
- Generally, lead each sentence with its subject (noun) and do not lose sight of it throughout the sentence
- Make sure sentences have parallel construction
- Use variation in sentence length
- Make sure tense usage is consistent, within sentences and within paragraphs
- Link sentences so that the topic of each sentence is closely related, builds on the previous sentence in a paragraph and is linked to the topic sentence of the paragraph
- Link paragraphs together by using semantic connections that help make transitions so that one paragraph follows another in a discernible progression

Style

- Write in the active voice; avoid the passive voice or use it only intentionally
- Generally, avoid split infinitives (an infinitive is the “to + verb” form such as “to stand” or “to go”). Avoid placing an adverb between an infinitive. Example: use “to stand firmly...” not, “to firmly stand...”
- Watch pronoun usage (“it” refers to collective nouns such as “committee” and “company”) and avoid gender linked pronouns where possible
- Avoid double negatives
- Avoid nominalizations (nouns formed from verbs) and simplify usage of verbs and verb phrases (use “stated” instead of “issued a statement”;
- Avoid redundant phrases (“ultimate conclusion,” “unexpected surprise”)
- Write in plain English and avoid jargon
- Avoid overstatement and understatement
- Watch overuse of prepositions and prepositional phrases that create run-on sentences (“with respect to,” “at such a time as”)
- If you think, “in other words,” use those other words instead
- Avoid conversational idiosyncrasies such as: contractions; overly dramatic characterizations; clichés and trite expressions, legalese, imprecise use of words and phrases, jargon, and social scientese

Form

- Always check for punctuation, spelling and typographical errors
- Check grammar, word choice and tone
- Carefully check citations and quotations; and
- Ensure your document meets the requirements for timeliness, length, and format.