
Table of Contents

ACKNOWLEDGMENTS	v
TABLE OF CASES	xiii
HOW TO USE THIS CASEBOOK.....	xvii
CHAPTER 1. <i>Introduction</i>	1
CHAPTER 2. <i>The United States Legal System</i>	5
The United States Constitution.....	5
The Executive Branch.....	6
The Legislative Branch.....	7
The Judicial Branch	7
DIAGRAM OF FEDERAL GOVERNMENT.....	8
DIAGRAM OF STATE GOVERNMENT	9
The U.S. Court System	9
The Federal Court System	11
Brief Overview of Civil Law Legal Systems	11
CHAPTER 3. <i>Understanding Cases as a Source of Law</i>	13
The Form and Function of a Judicial Opinion	13
Annotated Case: <i>Pennsylvania v. Gosselin</i>	14
How to Read and Brief a Case.....	20
Reading a Case	20
Annotated Case: How an Expert Might Annotate <i>Pennsylvania v.</i> <i>Gosselin</i>	21
Summarizing or “Briefing” a Case	28
Format of a Case Brief	29
Briefing Exercise	34
CHAPTER 4. <i>Working with Statutes</i>	37
Discussion Question.....	40
Statutory Interpretation Exercises	48

Hypothetical 1.....	48
Hypothetical 2.....	50
Hypothetical 3.....	52
CHAPTER 5. <i>Understanding and Using Legal Rules</i>	55
Using Case Precedent	55
Exercise: Applying Precedent from a Single Case to New Facts.....	56
Using Case Precedent: Rule Synthesis.....	57
Rule Synthesis in the Legal Context.....	58
Practicing Rule Synthesis: Take Me out to the Ball Game	60
Understanding Legal Authority.....	62
Primary v. Secondary Authority	63
Mandatory v. Persuasive Authority.....	64
Types and Weight of Authority in the Civil Law.....	65
Using the Hierarchy of Authority in a Legal Memorandum.....	66
Putting It All Together	67
What if There Is No Precedent on Your Legal Issue?	70
Challenge Exercise: Using Cases to Fill a Gap in the Law.....	71
CHAPTER 6. <i>Legal Memoranda</i>	77
Analyzing the Text.....	77
Memorandum (Sample 1).....	78
Memorandum (Sample 2).....	82
Exercise: Summarizing a Memorandum.....	86
Practicing Your Summarizing Skills	86
Drafting a Legal Memorandum.....	88
Effective Legal Memoranda.....	88
Preparing to Write the Memorandum	89
Who Is the Audience?.....	89
What Is the Purpose?.....	89
What About the Style?.....	90
Memorandum (Sample 3).....	93
Selecting the Format for Your Memorandum	100
Memorandum Drafting Exercise	106
CHAPTER 7. <i>Predictive Legal Analysis</i>	109
Issue.....	109
Rule.....	110
Analysis.....	111
Conclusion.....	113
Exercise	114

CHAPTER 8. <i>Gathering Facts</i>	117
What Is a Fact?.....	117
Determining the Facts of a Case	119
Role Play	123
Client Interviews Across Cultures.....	124
Interviewing a Legal Professional.....	126
Using the Facts in the Predictive Memo.....	127
CHAPTER 9. <i>Revising and Editing</i>	131
Reviewing the Overall Structure of Your Work.....	132
Checking Your Large-Scale Organization.....	136
Examining the Small-Scale Organization	138
Revising Paragraphs.....	138
Edit for Tone	143
Edit to Eliminate Extra Words	144
Edit to Eliminate Wordiness in Your Writing	144
Use Strong Verbs, Primarily in Active Voice	145
Active and Passive Verb Voice	146
Revising Exercise 1	147
Revising Exercise 2	148
Revising Exercise 3	148
Peer Review: An Important Editing Skill for Legal Practice	148
Proofreading Your Document	149
CHAPTER 10. <i>Writing for Your Client</i>	151
American Bar Association Model Rules of Professional Conduct.....	151
E-mail Correspondence	152
Exercise 1: Tone	155
Exercise 2: Using E-mail to Communicate with a Client	156
Client Letters.....	157
Client Presentations.....	169
Communication with a Supervisor	170
Exercise: Presentation to a Supervisor.....	170
CHAPTER 11. <i>Introduction to Persuasive Writing</i>	173
Persuasive Argument	173
Persuasion	174
Exercise	175
Persuasion in Appellate Practice	175
Exercises.....	178

CHAPTER 12. <i>Writing for the Court—Trial Briefs</i>	179
Audience, Purpose, and Form of a Motion Brief	180
Audience	180
Purpose	181
Form	181
Cover Page	182
Introductory Statement.....	183
Facts.....	184
Argument	185
Conclusion.....	191
Preparing to Write	192
Exercise: Drafting a Reply Brief.....	202
Exercise	203
CHAPTER 13. <i>Writing for the Court—Appellate Briefs</i>	205
Format of the Brief	206
Cover Page	206
Question Presented for Review	208
Student Exercise	208
Table of Contents	209
Table of Authorities	210
Opinions Below	212
Statement of Jurisdiction	212
Constitutional Provisions, Treaties, Statutes or Regulations Involved	212
Statement of the Case	213
Student Exercise	215
Summary of the Argument	215
Argument	216
Student Exercise	219
The Conclusion	219
Student Exercise	221
CHAPTER 14. <i>Writing as the Court</i>	223
Bench Memos and Judicial Opinions.....	224
Writing a Bench Memo	224
Bench Memo Format	225
Tone and Audience.....	228
Final Considerations.....	229
Bench Memo Exercise.....	229

Drafting Judicial Opinions.....	230
Judicial Opinions Are Persuasive Writing	230
Opinion Format	231
Opinion Checklist	232
Opinion Writing Exercise	233
CHAPTER 15. <i>Oral Advocacy</i>.....	235
Oral Argument: The Details.....	236
Student Exercise	239
CHAPTER 16. <i>Mindful Lawyering</i>.....	241
Meditation Instruction.....	244
CHAPTER 17. <i>Beyond Law School</i>.....	245