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Legal Research and Writing LRW (Law 513)

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Legal Research and Writing LRW (Law 513)

Fall 2018

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Abstract

This portfolio explores and documents student learning in a required first-year law course, Legal Analysis, Research and Writing. This portfolio focuses on two specific course learning objectives: (1) organizing a legal argument (CRAC or a variation) and (2) explaining legal rules. I evaluated student work on the two writing assignments with the most weight—Research Memo 1 and Research Memo 2 to analyze whether students improved their understanding of and ability to perform the selected learning goals. I was specifically interested in student improvement from Research Memo 1 to Research Memo 2 because they represent a formative and a summative assessment and because students have an opportunity to rewrite Research Memo 1 after receiving written feedback.

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I. Objectives of Peer Review Course Portfolio

A. Portfolio Propose

I chose this particular course because it impacts the entire first-year class and is an important course for the foundation of the Law College’s curriculum. The aspects of the course that are particularly noteworthy are its span across the fall and spring semester, the way the assignments gradually build upon the skills being taught (“chunking”), the multiple opportunities to practice many of the skills being taught, and the ability for the students to advance at their own pace.¹

¹ For this portfolio, I examined the fall semester and the way the assignments gradually build upon the skills being taught (“chunking”) and the multiple opportunities to practice many of the skills being taught. Chunking is a teaching tool that breaks information into

The purpose of this portfolio² is to explore, document, and address student learning of two specific course learning objectives: (1) organizing a legal argument (CRAC or a variation) and (2) explaining legal rules. To do this, I evaluated student work on the two writing assignments with the most weight—Research Memo 1 and Research Memo 2.

B. Hypothesis

My hypothesis was that despite the level of performance on the final assignment, Research Memo 2, students drastically improved their understanding of and ability to perform the selected learning goals, and that the improvement was enhanced by the chunking and opportunity to rework a previous assignment.³ Of course, the readings, lectures, class exercises, and other law school experiences helped the students understand and improve these core legal skills. But my hope is to use this portfolio to impress upon the LRW adjunct instructors and students the importance of and reason for (1) breaking up the skills taught in the course into smaller chunks throughout the entire course and (2) reworking previous assignments, specifically reworking formative assessments as a part of the final summative assessment.

II. The Course

A. Course Description

series of chunks that build upon each other. By calling upon the material learned in earlier chunks students have the opportunity to connect and repeat the materials. Because the chunks are designed to build upon each other, chunking helps with cognitive load and allows students to learn more effectively. The assignments in this course are designed to break the skills we are teaching into chunks and to build upon each chunk throughout the year-long course.

² I began with the goal of evaluating the entire LRW course, or at least the entire fall semester. I scaled down the goal for this portfolio project but hope to continue to evaluate the course overtime and ultimately have a better understanding of how all parts of the course—the teaching methods, readings, non-graded and graded assignments, professor feedback, and student reflection—work together to improve student learning and transfer to other legal situations.

³ This is based on prior teaching experience and other people's research, as these specific techniques were not isolated for select students. There is no control group.

This course is a cornerstone, foundational law school course designed to (1) introduce students to basic, fundamental legal concepts, including common law and court systems, jurisdiction, hierarchy and weight of authority, and the reading, understanding, and use of case law, (2) teach students essential legal thinking skills, primarily legal analysis, reasoning, research, and written and oral communication, and (3) teach students how to use these skills and concepts to articulate solid legal analysis in well-written legal documents. Writing is the main tool used for teaching these skills and concepts.

The students in this course are novice, first-year law students with diverse educational backgrounds. Students do not have other law courses to draw upon until further in the semester because this is a first-year fall course. It is the only course where students have multiple graded assignments throughout the semester.⁴

This course fits into the law school curriculum because it teaches students fundamental legal skills that they build upon in other courses. The learning objectives of the course correlate with the Learning Goals set out the College of Law⁵; each LRW learning objective is a building block for the Law College's Learning Goals.

The Law College gives the following course description to students:

Legal Analysis, Writing, and Research. Law 513/G-514/G; 6 cr.-2 cr. in the fall; 4 cr. in the spring. The emphasis of this course is on the development of legal research and writing skills; writing is the lawyer's most commonly used skill, and effective writing rests on effective research. Communicating like a lawyer, however, means not only communicating professionally but also conducting oneself ethically. In addition to providing sustained and intensive instruction on legal research and writing, this course introduces students to many facets of professionalism and to the skills necessary to make ethical and professional choices.

⁴ Other courses provide students un-graded, formative assessment opportunities.

⁵ <https://law.unl.edu/learning-outcomes/>

The Fall 2018 course syllabus is attached at Appx. A.

B. Course Learning Objectives⁶

My discrete, direct learning objectives for the course are the following:

- Read, understand, and use cases
- Understand how legal rules are developed
- Understand legal structures and weight of authority
- Understand how legal rules work, and how they influence the legal analysis
- Organize a legal argument (CRAC or a variation).
- Explain legal rules
- Identify the relevant rules
- Apply the relevant legal rules
- Organize a multiple-issue analysis
- Format a memo
- Write a predictive memo
- Complete a full predictive legal analysis
- Develop a clear, concise writing-style
- Research the law
- Use proper legal citation
- Use proper grammar

My broad, indirect⁷ learning objectives for the course include the following:

- Professionalism
- Group collaboration

⁶ I use the terms “learning objectives” and “learning goals” throughout this portfolio. For purposes of this portfolio, learning goals are broad learning outcomes students will acquire at the end of their law school experience and learning objectives are specific learning outcomes derived from a learning goal. The LRW learning objectives derive from the Law College Learning Goals. Thus, if students meet the LRW Learning Objectives, they should meet the corresponding Law College Learning Goal.

⁷ In the future, I would like to assess and develop additional, and more specific, indirect goals. I would like to consider the questions posed on page 28 of the peer review text: What perspectives or attitudes to you want have; What is important for them to learn about our field; What should they learn about themselves as students or as contributors to society; How are the goal structured into the course; why is it necessary for these goals to be structured into the course; what is it that you know about your students that makes these goals appropriate for their education; how are these goals reflected in the structure and daily goals of the course.

- Understand the way they learn
- Transfer what they learn in the course to other law courses and legal situations
- Intro to electronic filing systems, local rules, and legal software
- Understand basic legal ethics and lawyer's responsibility to courts, clients, the profession, and the public

These learning objectives are fundamental legal skills that students build upon in other law school courses.

These discrete course learning objectives directly correspond with the American Bar Association Standards and College of Law Learning Objectives. The College of Law has set out eight broad learning goals for its Juris Doctorate Degree Program; the course learning objectives directly impact seven of them:⁸

College of Law Learning Goal 1: A Nebraska Law graduate will acquire a broad-based knowledge and understanding of substantive and procedural law along with the legal, analytical reasoning, and complex problem solving skills necessary to apply this knowledge in professional work.

Corresponding LRW Learning Objective: Read, understand, and use cases; Understand how legal rules are developed; Understand legal structures and weight of authority; Understand how legal rules work, and how they influence the legal analysis; Organize a legal argument (CRAC or a variation); Explain legal rules; Identify the relevant rules; Apply the relevant legal rules; Organize a multiple-issue analysis; Complete a full predictive legal analysis; Write a predictive memo.

College of Law Learning Goal 2: A Nebraska Law graduate will acquire legal research and oral and written communication skills.

Corresponding LRW Learning Objective: Research the law; Organize a legal argument (CRAC or a variation); Explain legal rules; Apply the relevant legal rules; Organize a multiple-issue analysis; Format a memo; Write a predictive memo; Complete a full predictive legal analysis; Develop a clear, concise writing-style; Use proper legal citation; and Use proper grammar.

⁸ The only Law College learning goal not directly impacted this course's learning objectives is Law College Learning Goal seven, "A Nebraska Law graduate will have the opportunity to serve the community." The learning objectives of LRW impact a student's ability to serve the community through law because it teaches them the fundamentals of law practice; however, it does not provide a direct community service experience.

College of Law Learning Goal 3: College of Law Learning Goal: A Nebraska Law graduate will acquire the foundational knowledge and understanding necessary to exercise proper professional and ethical responsibilities to clients and the legal system.

Corresponding LRW Learning Objective: Professionalism; Intro to electronic filing systems, local rules, and legal software; Understand basic legal ethics and lawyer's responsibility to courts, clients, the profession, and the public.

College of Law Learning Goal 4: College of Law Learning Goal: A Nebraska Law graduate will acquire the foundational knowledge and understanding necessary to represent clients and to organize and perform complex or specialized professional work.

Corresponding LRW Learning Objective: Read, understand, and use cases; Understand how legal rules are developed; Understand legal structures and weight of authority; Understand how legal rules work, and how they influence the legal analysis; Organize a legal argument (CRAC or a variation); Explain legal rules; Identify the relevant rules; Apply the relevant legal rules; Organize a multiple-issue analysis; Format a memo; Write a predictive memo; Complete a full predictive legal analysis; Develop a clear, concise writing-style; Research the law; Use proper legal citation; Use proper grammar; Professionalism; Intro to electronic filing systems, local rules, and ???; Understand basic legal ethics and lawyer's responsibility to courts, clients, the profession, and the public.

College of Law Learning Goal 5: College of Law Learning Goal: A Nebraska Law graduate will acquire the foundational knowledge necessary to understand institutional roles, legal structures and how legal processes operate in the United States and the world.

Corresponding LRW Learning Objective: Read, understand, and use cases; Understand how legal rules are developed; Understand legal structures and weight of authority; Understand how legal rules work, and how they influence the legal analysis;

College of Law Learning Goal 6: A Nebraska Law graduate will acquire the foundational knowledge and understanding necessary to work successfully with clients from diverse backgrounds and cultures, and to collaborate successfully with other professions and professionals.

Corresponding LRW Learning Objective: Professionalism; Understand basic legal ethics and lawyer's responsibility to courts, clients, the profession, and the public.

College of Law Learning Goal 8: A Nebraska Law graduate will have the opportunity to develop the skills necessary to creatively solve complex problems, to resolve conflicts, and to lead others.

Corresponding LRW Learning Objective: Understand how legal rules are developed; Understand legal structures and weight of authority; Understand how legal rules work, and how they influence the legal analysis; Organize a legal argument (CRAC or a variation); Explain legal rules; Apply the relevant legal rules; Organize a multiple-issue analysis; Format a memo; Write a predictive memo; Complete a full predictive legal analysis; Professionalism; Understand basic legal ethics and lawyer’s responsibility to courts, clients, the profession, and the public.

III. Writing Assignments

Each assignment is designed to increase student learning and help students transfer material from one assignment to the next and, hopefully, to other law school contexts. The graded written assignments of the course are: Case-briefing and false imprisonment legal analysis; Closed Memo; Collaborative Memo; Research Memo 1; and Research Memo 2. A description of the assignments, their learning objectives, and the teaching methods I used to design them are discussed below.

1. Case-Briefing And False Imprisonment Legal Analysis

I revised and combined two assignments to create a new assignment for Fall 2018. The new assignment is a case-briefing and issue analysis exercise. The case-brief exercise focuses on active and critical reading. Students are introduced to case briefing during orientation and in the assigned LRW reading. This assignment builds on the orientation instruction and focuses on how to read the cases to get the information to analyze a false imprisonment issue and answer analysis questions.

I constructed the issue analysis exercise to be a step-by-step process.⁹ It is the first “chunk” in a year-long process of chunking the skills being taught. It focuses on identifying the issue and synthesizing rules. The exercise also asks students to consider the strengths

⁹ This assignment is organized in chunks and it also the first building block in a year-long program that will teach in “chunks” and build upon them to reach the Learning Goals.

and weaknesses of each side and the policy behind the rules. It breaks each of these out into their own question to emphasize the importance of considering each as its own part of the analysis: Rule, Issues, Application, Legal Prediction, and Legislative Policy.

The learning objectives for this assignment include helping students learn to (1) read, understand, and use cases; (2) understand how legal rules are developed, how they work, and how they influence the legal analysis; and (3) organize a legal argument (CRAC or a variation).

2. Closed Memo

For Fall 2018, I narrowed the scope of the assignment to focus students on the foundational skills we have covered the first few weeks of class. Instead of writing a full office memo, the new closed memo assignment is to write the discussion section of a closed memo. By limiting and focusing the assignment, it becomes another chunk in the overall building of skill. The students can repeat skills they have learned and learn a few new skills in a less overwhelming environment. This also allows instructors to give students more direct feedback on the most important skills they are learning and get feedback to the students quicker, so students can incorporate the feed back into the next assignment, giving them another opportunity to practice foundational legal analysis skills.

The learning objectives of the assignment include legal organization and developing, explaining, and applying the rule. Feedback may be provided through written feedback or individual live grading based on the learning objectives.

3. Collaborative Memo

This assignment was a new assignment in Fall 2018. It is the third closed assignment and is completed in week 5. The purpose is to build on the skills introduced in the previous assignments and to introduce group collaboration. The students work in small groups (3-4) to write a short discussion section for a multiple-issue legal analysis. The learning objective is to develop skills organizing a multiple-issue analysis and get students comfortable work in groups. Feedback may be provided through in-class discussions, limited written feedback, or group live-grading sessions.

4. Research Memos 1 & 2

In Fall 2018, I reformatted the research memo assignment. Instead of one, large legal research and writing assignment, I broke it into two shorter assignments that build on each other—Research Memo 1 and Research Memo 2. Both are objective, predictive memos. Unlike the prior research memo assignment,¹⁰ my new assignments incorporate formative assessment and feedback, and an opportunity for the students to rewrite a legal analysis after receiving graded feedback.

Research Memo 1 is a short, complete research memo in a simulated a client-based legal problem. It consists of one research issue. Students research, analyze, and write a predictive, objective memo to a partner. They write a complete memo with Question Presented, Brief Answer, Statement of Facts, Discussion, and Conclusion sections. They also use proper citation formation. At this point students will have practiced writing several discussion sections, but will have less experience with the citations and other parts of the brief and no experience with legal research.

Research Memo 1 is a formative assignment; its purpose is to serve as a learning tool for us to monitor student learning and to provide feedback that students can use to improve the skills we are teaching on the rewrite. After students get feedback on Research Memo 1, they meet with their instructors to improve their legal analysis, writing and research on the first issue. Students rewrite Research Memo 1 as part of the next assignment, which allows class discussion to focus on how to deepen the legal analysis of Research Memo 1 and revising and editing it.

Research Memo 2 is the large, final paper in the fall; it is the bulk of the fall grade. It consists of two research issues, the issue from Research Memo 1 and a new issue. Students write a complete memo with Question Presented, Brief Answer, Statement of Facts, Discussion, and Conclusion sections that address both issues. Research Memo 2 is a summative assessment that evaluates the students' ability to put together and use the skills they have been learning all fall.

¹⁰ I inherited a writing program, thus, many of the prior assignments were not my design.

IV. Teaching Methods

In this course, I use a variety of teaching methods and assessments: lecture; textbook readings; out-of-class, on-line quizzes and exercises; in-class exercises; low-, medium-, and high- stakes assignments; visual examples; live-grading (contemporaneous oral feedback); written feedback; and individual student conferences. I also use teaching methods designed to help the students transfer what they are learning to new contexts.

I give students multiple opportunities to practice specific skills and to learn through trial and error. Generally, students are introduced to a concept in the reading, students practice the concept through an exercise or assignment, instructors lecture on the concept before or after the students practice, students and instructors discuss the concept again after students have practiced it, and students perform the concept on a future graded assignment. Instructors continue to give feedback on all concepts throughout the year until a student performs it satisfactorily.¹¹

The materials I selected and created not only teach students' legal writing and analysis, but also provide them with tools for continuing to learn from feedback throughout their career. These methods, materials, and activities will help students throughout their legal studies and beyond.

A. Textbooks

Fall 2018, I replaced the course textbook with one I curated from Wolters Kluwers. The custom text focuses on general legal analysis and writing for the fall. I also switched from the *Writer's Reference* to the *Little Book on Legal Writing* because it is a simple, law focused style and grammar book—similar to *Strunk & White*.

My curated text is a compilation of several legal analysis and writing textbooks. Because legal analysis and writing “clicks” for people at different times, the text is clear and in many instances shows the students how to do the specific skill it is discussing, allowing them to build on skills as they are ready. I intentionally included a lot of information in the text so students can move ahead if they choose. I also included some material twice but said in different ways because people learn differently. The students who read the text

¹¹ Unfortunately, the time limitations of this course do not allow for Teaching of Mastery.

seem to find it helpful. I have had multiple students refer to the text and say that it was very useful. The fall is difficult because students don't know what they don't know. But I encourage them to re-read or review the textbook throughout the course.

B. In-class Lectures and Active Learning Exercises

In Fall 2018, I restructured the course. Under the previous structure of the course, the classroom teaching responsibilities were shared between adjunct instructors and myself. I lectured once a week to the entire 140-student class and the instructors taught a weekly small group. In 2018, I eliminated the large lectures. I provided the curriculum and substantive classroom content, but the instructors did the classroom teaching. Instructors taught two classes a week.

I purposefully choose this format to allow for more interactive classroom sessions where instructors can use active learning, group collaboration, and in-class writing exercises.

V. Analysis of Student Learning

I reviewed student work to analyze two legal skills: (1) organizing a legal argument (CRAC or a variation) and explaining legal rules.

A. Organizing a Legal Argument with I/CRAC

The basic organization for a simple legal analysis is Issue/Conclusion, Rule, Application, Conclusion, commonly referred to in the legal academy as IRAC or CRAC. While there are many variation of this, I begin teaching legal organization to novice legal thinkers with the simple CRAC structure. The simple single CRAC structure advances as the legal analysis becomes more complex. We go from using a single CRAC for a single legal issue into multiple, embedded CRACs for multiple legal issues. For example, a legal analysis that has one legal issue stemming from the rule could be represented with a single CRAC, like this:

C
R
A
C

And a legal analysis that has two legal issues stemming from the rule could be represented with embedded CRACs, like this:

C
R
A
 crac
 crac
C

Students are introduced to the single CRAC structure from the first day of class—while explaining how to read and brief cases the text mentions this traditional structure. The text explains it in detail in later chapters, the instructors discuss it and provide examples in class, the students are expected to use it on their individual Closed Memo assignment and on the group Collaborative assignment that precede the Research Memo 1. During this time students learn to build from a single CRAC to embedded CRACs.

Looking at student performance on Research Memo 1 it became clear to me that there were three identifiable levels of performance related to legal organization:

- (1) Students who recognized that the assignment's legal analysis was made up of multiple legal issues and who used the advanced embedded CRAC structure to organize their legal analysis;
- (2) Students who failed to recognize the need for the embedded CRACs and organized the multiple issue legal analysis in one large CRAC, but who did not mix up rules and application within this structure; and
- (3) Students who failed to recognize the need for the embedded CRACs and organized the multiple issue legal analysis in one large CRAC and mixed up rules and application within this structure.

The student work from group 1, Student 1, also made good use of headings to organize the discussion section of the memo. The student work from groups 2 and 3, Student 2 and 3, did not use headings. This made me wonder how well Students 2 and 3 understood the rule and how it works.

I was pleased when I compared this work with work on their second attempt of the same legal issue after receiving graded feedback, Research Memo 2. Regardless of the level of performance on Research Memo 1, students improved:

(1) Continued to recognize the need for the embedded CRAC and used it to organize the multiple issue legal analysis. Student 1 continued to use headings and each part of the CRAC was clearly identifiable by clear word choice. The student improved on the issue that had a rule that could be satisfied two different ways. The student had used embedded CRAC on Research Memo 1 but in Research Memo 2, the student used a variation of embedded CRAC to make his or her structure even clearer.

(2) Recognized the need for the embedded CRAC and used it to organize the multiple issue legal analysis. Student 2 used headings and each part of the CRAC was clearly identifiable by clear word choice. When one of the issues had a rule that could be satisfied two different ways, this student used a single CRAC when most students used the embedded CRAC structure for the issue. However, based on the student's writing and other organization, it appeared to be a choice, not a lack of understanding. Student 2 made very substantial progress on this learning objective from Research Memo 1 to Research Memo 2.

(3) Recognized the need for the embedded CRAC and used it to organize the multiple issue legal analysis. Student 3 used embedded CRAC but struggle when one of the issues had a rule that could be satisfied two different ways. The student reverted back to a single CRAC for that issue when most students used the embedded CRAC structure for the issue. Unlike Student 2 who also used a single CRAC on this issue, this student's organization was much less clear. The use of a single CRAC did not appear to be a clear choice of organization but a lack of understanding of the rule and CRAC. But Student 3 did make substantial progress on this learning objective from Research Memo 1 to Research Memo 2.

Overall, I was pleased with the students' progress and credit it, in part, to the formative nature of these two assignments—students were given an opportunity to select the best legal organization, they were given written feedback on their selection, they had the opportunity to meet with their instructor to discuss the selection, and then they were given the opportunity to make another selection. On their second attempt, the students selected the correct organization for the main legal analysis, although one struggled organizing more intricate parts of the legal analysis.

This peaked to my interest as to whether students were able to select the correct legal organization on an entirely new legal analysis. That led to my final evaluation for this learning objective. To review students' ability to apply this skill—organizing with simple or complex CRACs—to a new context, I reviewed student work on the summative component of Research Memo 2. Upon review, I was delighted to see that Student 1, 2, and 3 selected appropriate legal organization for their legal analysis. Student 3 incorrectly placed some case discussion into the application but it was an attempt to use analogies; it did not appear to stem from a lack of understanding legal organization—CRACs.

B. Explaining Legal Rules

One of the other foundational skills we teach throughout the course is rule explanation. Students are introduced to it in the first course assignment, Case-Briefing And False Imprisonment Legal Analysis. The textbook explains it in detail, the instructors discuss it and provide examples in class, students are expected to use it on every assignment in the course and get feedback from instructors specific to this skill.

At the point the students complete Research Memo 1, they should be able to explain the rule by funneling the rule from broad rules to specific rules, recognize that the case illustrations are at the bottom of the funnel, and begin to write rule explanations that focus on the rule, not the cases.

Comparing student performance on Research Memo 1 to their performance on Research Memo 2 it became clear to me that students also improved their ability to write rule explanations:

(1) In Research Memo 1, Student 1 did all three of the rule explanation techniques I described above but included unnecessary case examples. In Research Memo 2, the student corrected his or her use of case illustrations and included only relevant illustrations that made the rule explanation clearer.

(2) Student 2 wrote a fine rule explanation in Research Memo 1 that mostly satisfied the three rule explanation techniques I described above. Student 2 barely made any changes to the rule explanation for Research Memo 2; the student should have revised his or her work.

(3) Student 3 did not perform the three rule explanation techniques in Research Memo 1. Student 1 wrote the rule explanation around the cases he or she cited instead of around a synthesis of the rules from those cases. Many of this student's sentences began, "In such-in-such case, ..." . In Research Memo 2, the student synthesized the rules more than in Research Memo 1 and spent less time describing the facts of other cases and more time pulling the rules from those cases. The student did not funnel the rules from broad to specific or put the case illustrations at the bottom of the funnel but the student revised his or her work from Research Memo 1 to research Memo 2 more than Student 1 or 2 and made good improvement.

VI. Reflections & Lessons Learned

Because the course has a final curve it takes more than evaluating letter grades to really see the fruits of the students' labor. Writing this portfolio provided me with a guided process for evaluating and appreciating student improvement and success.

This process has been, and will continue to be, very helpful as I redesign the legal writing course. I have learned methods and techniques to assess and increase student learning in this and other courses.

A. Successes & Opportunities for Improvement

This process allowed me to confirm that introducing students to small bits of information at a time, allowing students to build on those bits of information overtime, and having students rework previous assignments are effective teaching methods.

It also reminded me that some students do not revise and rework their work as much as they should. Thus, I need to consider ways to encourage them to do continue to improve certain skills from assignment to assignment and to hold them accountable for doing so. In the past, I have had them turn the first assignment in with the second. We grade anonymously at UNL so that is not currently an option. I will continue to brainstorm ideas.

B. Future Changes

1. Adding a Pre-/Post- Assignment for Assessment

I have created a pre- and post- assignment for Fall 2019. The new assignment is based on the first assignment of the course, Case-Briefing And False Imprisonment Legal Analysis. My idea for this assignment developed from two areas of interest: (1) I wanted to document student learning for my own teaching and scholarship and (2) I wanted students to see how much they had learned from the course to increase their confidence and to facilitate transfer to the spring semester.

I will execute this in Fall 2019 by assigning it as both the first and last assignment of the fall course. The pre-assignment will be assigned before classes begin in the fall. Students will submit it the first week of class. We will go over it in class and I will use it as an example of the skills we are learning throughout the semester. The post-assignment will be given out in class and student will have the class period to complete it. As part of the post-assignment, I will assign an out-of-class, one-page reflection narrative. After reviewing the pre- and post- student work, I will write up my reflections on what I think the data demonstrates. I will then review the students' reflection narratives and analyze the difference between my reaction and the students' reaction.

I am considering whether I should create material for my LRW instructor manual that sets out what we want the students to learn with a direct tie to this assignment and uses this assignment for instructors to evaluate whether their individual students learned these skills. The assignment is attached at Appx. B.

2. Updating Syllabus

Next year, the syllabus will be similar but I have edited it to try to reduce the material students have to read. I have also added language to emphasize the learning objectives of the course and to explicitly state the learning opportunities the course provides for students. I also edited the language about the honor code and cited to the text that discusses the ethical, professional, and academic purposes of the work alone rule ("Your fall text explains the ethical standards of law practice and plagiarism in an academic environment on pages 2-4. Please review these pages. If you have any questions about our expectations, please ask."). The draft syllabus is attached at Appx. C.

3. Update Adjunct Instructor Responsibilities And Expectations

I have also updated the Adjunct Instructor Responsibilities and Expectations to focus on teaching pedagogy and student learning. The 2019 Adjunct Instructor Responsibilities and Expectations is attached at Appx. D.

4. Course Name Change

Finally, the name will change next year from Legal Research and Writing (LRW) to Legal Analysis, Writing, and Research (LAWR). Those words and that order better reflect the way students and adjuncts should approach the class and the skills they should expect to learn or teach in the course.

SYLLABUS

Prof. Hayden
Legal Research & Writing
2018

Course Learning Objectives

The goal of this course is to develop your ability to think like a lawyer and introduce you to the work lawyers do. The primary objective is to provide you with a strong foundation in legal reasoning, research, and writing methods. We will teach you how lawyers objectively analyze legal issues to predict outcomes, communicate advice, and resolve client problems. In the spring, we will introduce you to persuasive writing, appellate advocacy, and oral argument.

Course Overview

You have been assigned to a small group for LRW. This syllabus sets out the schedule and assignments for the fall semester for all small groups. Your assigned group is posted on Canvas. You will be with this group for the entire year. Each small group is taught by a member of the local legal community with many years of law practice experience. Their names and contact information are listed on Canvas.

You will meet with the law library professors for legal research instruction. During this time, you will learn effective search strategies and the basics of researching cases, statutes and agency rules & regulations, and secondary sources. Your law library professors will be distributing a separate research syllabus describing the work in this segment of the course. As noted below, your class schedule is modified during these weeks.

Your citation training will be in a program called The Interactive Citation Workstation, which is keyed to the optional workbook, The Interactive Citation Workbook for the Bluebook. You will complete the online citation exercises as set out below. They are due Fridays by 5 p.m.

You will also have non-graded quizzes in a program called LawClassFeedback (LCF). LCF provides additional practice on the skills and concepts you will learn in this course. Using LCF will provide you with helpful feedback and may also help you to study more efficiently. Your book will come bundled with an access code shrink-wrapped to the back cover of your casebook. **Do not throw this code away.** When you log on you will need that code; otherwise, you'll be required to pay to access LCF content.

You will submit your final fall assignment—Research Memo 2—on the Monday before Thanksgiving. Your graded memo will be returned to you the first week of the spring semester.

Attendance & Out-of-class work

Professionalism is stressed in this course, so your regular attendance to all class sessions is required. You may be absent three times for personal reasons throughout each semester. If you exceed three absences in one semester, your final grade will be reduced unless the absence is: (1) for your own serious illness or the serious illness or death of an immediate family member and (2) substantiated. Please see the research syllabus for the attendance policy during those sessions.

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The ABA requires students to spend approximately two hours studying out of class for every hour spent in class. Frankly, you should spend much more time than that learning these skills. Mastering these skills takes effort and practice. Before class you should conscientiously read the material, take notes, and do the class assignments. After class, you should review the material, your notes, and the assignment, reflecting on what you have learned. In the beginning, the writing assignments will be time consuming, but as your legal research and analysis skills improve, so will your ability to communicate your analysis in writing.

Office Hours

Your small section professors will maintain office hours at the College of Law throughout the semester. They will let you know these office hours.

Although my office door is always open, it's usually a good idea to see your own instructor first for any questions or concerns you have about assignments you are doing for them. You may make appointments with them directly. If, after discussing your work with your professor, you are still concerned, please feel free to see me.

Use of the UNL Writing Center

UNL has a writing center, a place for students to talk about their writing with trained peer consultants. We encourage you to seek assistance from the consultants at the writing center. For opportunities to meet with a consultant, please check the writing center's website at <https://www.unl.edu/writing/home>.

Writing Assignment Policy – Honor Code

You must work alone on assignments unless otherwise instructed. This means you may not discuss the assignment with, or receive assistance from, any person other than a legal writing professor, legal writing teaching assistant, law librarian, or a writing consultant at the UNL Writing Center. This prohibition covers all communications, even those online or in electronic form. If you are permitted to work with other students, you will be specifically so instructed by your professor. A violation of the rules regarding discussions/assistance on any assignment is an honor code violation.

Grading

Your small-group legal writing professor will be primarily responsible for your grade on the graded assignments. For each graded assignment, your professor will give you a raw score. At the end of the year, I will average all those scores, giving them all the weight you see below, then will assign grades to all students on the Law College's 9-point grading scale. When I do this, I'll use the same grade distribution curve for each of the small sections. Your final grades will be curved; this means that your grade for the course will be a function of your relative standing within your small section. The overall grade curves in the small sections will be as similar as I can make them from one section to the next.

Assignments

Over the course of the year you will complete seven graded assignments. I will compute a weighted average of your seven raw scores, giving them the following weight:

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closed memorandum: 1/15
research memorandum #1: 2/15
research memorandum #2: 3/15
persuasive brief: 1/15
moot court brief #1: 2/15
moot court brief #2: 4/15
oral argument: 2/15

You will also have non-graded assignments as set out in the syllabus. **To receive credit for the course, all assignments must be completed satisfactorily.**

Your final grade may be lowered by as much as 2 points (on the College's 9-point grading scale) for unsatisfactory performance during the legal research portion of the course. Any deductions will be based on poor attendance, nonparticipation during the lectures, or poor work on assignments.

All assignments must be submitted timely. Late submission will be subject to the following penalties:

- Ten percent (10%) will be deducted from the grade of any work submitted after the deadline and within the first 24 hours after the deadline for submission has passed.
- An additional twenty percent (20%) will be deducted after the first 24 hours and within the first 48 hours after the deadline for submission has passed.
- An additional twenty percent (20%) will be deducted for each additional 24-hour period that has passed between the time the paper was due and the time of its submission (i.e., 48 hours-72 hours; 72 hours-96 hours; 96 hours-120 hours). These deductions will be cumulative.
- Any graded work that is more than 120 hours (five days) late, will receive a grade of "0" (zero).

Please note Vida Eden's work hours are Monday-Friday 7:30 a.m. to 4:00 p.m. You will not be able to turn assignments into her after 4:00 p.m.

Only M.L.S. candidates (who do not take a full year of Legal Research & Writing) will receive a mid-year grade in this course; J.D. candidates will receive a final grade for six credit hours at the end of the spring semester.

Texts for Legal Research and Writing, Fall 2018

Required

Legal Writing Custom Edition University of Nebraska (curated by Chelsi Hayden, Wolters Kluwer, 2018)

Dworsky, Alan L., *The Little Book on Legal Writing* (2d ed., William S. Hien & Co. Publishers, 2007)
[referred to as *The Little Book*]

The Harvard Law Review, *The Bluebook: A Uniform System of Citation* (20th ed., Harvard, 2015) [referred to as *The Bluebook*]

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Recommended, but not required

Additional readings and material posted on Canvas

To supplement your ICW online exercises, you may purchase the companion workbook, Tracy L. McGaugh Norton and Christine Hurt, *Interactive Citation Workbook for The Bluebook: A Uniform System of Citation* (LexisNexis, 2016).

The following text may also be beneficial and are on reserve in the Library:

Laurel Currie Oates and Anne Enquist, *Just Memos: Preparing for Practice* (5th ed., Wolters Kluwer, 2018)

Heidi K. Brown, *The Mindful Legal Writer: Mastering Predictive Writing* (Wolters Kluwer, 2015)

Richard K. Neumann, Jr., J. Lyn Entrikin and Sheila Simon, *Legal Writing* (3rd ed., Wolters Kluwer, 2015)

Linda H. Edwards, *Legal Writing: Process, Analysis, and Organization* (7th ed., Wolters Kluwer, 2018)

Garner, Brian A., ed., *Black’s Law Dictionary [hardbound]* (10th ed. Thomson/West Publishers 2014).

Readings for Legal Research Sessions

You will be assigned additional readings for your legal research sessions. Please consult the legal research syllabus.

Accommodations for Students with Disabilities

If you think you will need any disability-related accommodation to succeed in this class, such as extended time for an assignment, help with note-taking, or any other accommodation, please contact Assistant Dean Marc Pearce and/or the Office of Services for Students with Disabilities as soon as possible for a confidential conversation.

Class Sessions and Assignments

Your assignments are posted on Canvas. **To receive credit for the course, all assignments must be completed satisfactorily.**

Fall 2018

Week 1 August 20-24

Topic	Class Assignments—bring to class unless told otherwise	Out of Class Assignments—due or available as noted
Class 1: Introduction to Legal Analysis	Read Text intro, chpts 1-3; The Little Book chpts 1 & 2 Case briefing & false imprisonment assignment, email to your small section professor by Monday at 9 a.m.	Due Friday by 5 p.m.: LCF Quiz 1

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Class 2: Introduction to Legal Rules	Read Text chpts 4-6; The Little Book chpt 6	
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Week 2 August 27-31		
Topic	Class Assignments	Out of Class Assignments
Class 1: Understanding Legal Rules	Read Text chpts 7-9 Write a rule for the issue of whether Albert's falsely imprisoned Gerwin.	Due Friday by 5 p.m.: ICW online exercise one (case names) LCF Quiz 2
Class 2: Rule Explanation	Read Text chpts 10-13 Write a rule for the issue of whether Albert's has a defense to a claim for false imprisoned by Gerwin.	

Week 3 September 3-7		
Topic	Class Assignments	Out of Class Assignments
Class 1: Introduction to Rule Application	Read Text chpts 14-15; The Little Book chpts 3, 4, & 5 Write a rule application on the two issues of whether Albert's falsely imprisoned Gerwin and whether Albert's has a defense to a claim for false imprisoned by Gerwin.	Closed Memo Assignment OUT, available on Canvas Monday at 9 a.m.
		Due Friday by 5 p.m.: ICW online exercise two (case location) LCF Quiz 3
Class 2: Rule Application cont.		

Week 4 September 10-14		
Topic	Class Assignments	Out of Class Assignments
Class 1: Legal Organization	Read Text chpts 16-18	Closed Memo IN. Submit two printed copies to Vida Eden and upload an electronic copy to Canvas by Tuesday at 9 a.m. (Monday is Labor Day)
		Collaborative Assignment OUT, available on Canvas Friday at 9 a.m.
Class 2: Drafting the Discussion	Read Text chpt 19	Due Friday by 5 p.m.: ICW exercise three (court and date)

Week 5 September 17-21		
Topic	Class Assignments	Out of Class Assignments
Class 1: Drafting the Discussion cont.	Read Text chpt 20; The Little Book chpt 13	Collaborative Assignment IN. Email it to your small section professor by Friday at 5 p.m.
		Research Memo 1 Assignment OUT, available on Canvas Friday at 9 a.m.
		Closed Memo returned, pick up from Vida Eden after 9 a.m. Friday
		Due Friday by 5 p.m.: ICW online exercise four (parallel citations)
Class 2: Issue Statement and Brief Answer	Read Text chpt 21 Draft an issue statement and brief answer for the Closed memo	

Week 6 September 24-28		
Topic	Class Assignments	Out of Class Assignments
Class 1: Collaborative Review	Read Text chpt 23-24; The Little Book chpts 7 & 8 Be prepared to discuss your collaborative assignment.	Due Friday by 5 p.m.: ICW exercise five (short forms for cases) LCF Quiz 4
Class 2: Legal Research Training with the Law Library Professors begins	You will <u>not</u> have class with your LRW professor. Instead, you will have research class on Thursday, September 27 from 2:30-3:30. Consult the syllabus you received from your assigned research professor.	See legal research syllabus for assigned readings and/or assignments.

Week 7 October 1-5		
Topic	Class Assignments	Out of Class Assignments
Class 1: Closed Memo Review	Read Text chpt 22; The Little Book chpt 12 Be prepared to discuss your closed memo assignment.	
Class 2: Legal Research Training with the Law Library Professors cont.	You will <u>not</u> have class with your LRW professor. Instead, you will have research class on Thursday, October 4 from 2:30-3:30. Consult the syllabus you received from your assigned research professor.	See legal research syllabus for assigned readings and/or assignments.

Week 8 October 8-12		
Topic	Class Assignments	Out of Class Assignments
Legal Research Training with the Law Library Professors cont.	<p>Read Text chpt 25.</p> <p>You will not have class with your LRW professor this week. Instead, you will have research class on Tuesday, October 9 from 3:00-4:00.</p> <p>Consult the syllabus you received from your assigned research professor.</p>	See legal research syllabus for assigned readings and/or assignments.

Week 9 October 15-19		
Topic	Class Assignments	Out of Class Assignments
Legal Research Training with the Law Library Professors cont.	<p>You will not have class with your LRW professor this week. Instead, you will have research class on Thursday, October 18 from 2:30-3:30. Your Research Memo 1 is due Tuesday.</p> <p>Consult the syllabus you received from your assigned research professor.</p>	<p>Research Memo 1 IN. Submit two printed copies to Vida Eden and upload an electronic copy to Canvas by Tuesday 9 a.m. (Monday is Fall Break)</p> <p>Research Memo 2 Assignment OUT, available on Canvas Monday at 9 a.m.</p> <p>See legal research syllabus for assigned readings and/or assignments.</p>

Week 10 October 22-26		
Topic	Class Assignments	Out of Class Assignments
Eighth Circuit Court of Appeals	<p>EIGHTH CIRCUIT COURT OF APPEALS ARGUMENTS</p> <p>October 24 from 9:00 a.m. to 11:00 a.m. in the auditorium</p> <p>You must attend the oral arguments.</p>	
Legal Research Training with the Law Library Professors cont. (no small group classes)	<p>You will not have class with your LRW professor this week. Instead, you will have research class on Thursday, October 25 from 2:30-3:30.</p> <p>Consult the syllabus you received from your assigned research professor.</p>	See legal research syllabus for assigned readings and/or assignments.

Week 11 October 29-November 2		
Topic	Class Assignments	Out of Class Assignments
Class 1: Deepening the Analysis	Read The Little Book chpts 9, 10, & 11	<p>Due Friday by 5 p.m.:</p> <p>ICW exercise eleven (Secondary Sources)</p> <p>LCF Quiz 5</p>

Class 2: Deepening the Analysis cont.		
Optional Research in Context with Lexis	Lexis Research in the context of Research Memo 1 Optional session with Lexis Rep. Fred Abboud October 31 at 12:00 p.m. in the auditorium	

Week 12 November 5-9		
Topic	Class Assignments	Out of Class Assignments
Class 1: Deepening Analysis cont.	Read Text chpt 26-27 Come to class prepared to discuss the rules and application of Research Memo 1.	Research Memo 1 returned, pick up from Vida Eden after 9 a.m. Tuesday
Class 2: Rewriting Research Memo 1	Review Text chpt 19 Come to class prepared to discuss the rules and application of Research Memo 1.	Due Friday by 5 p.m.: ICW online exercise twelve (Parentheticals)
Individual Meetings with Professor		

Week 13 November 12-16		
Topic	Class Assignments	Out of Class Assignments
Class 1: Revising for Style and Usage	Read Text pages chpt 28-29 This is a good time to have a final draft complete so you can revise your memo.	
Class 2: Revising for Style and Usage cont.	Review Text chpt 25; the Little Book chpts 1-13 Bring a copy of your memo draft to class and be prepared to revise it.	
Individual Meetings with Professor		

Week 14 November 19-23
No class—Thanksgiving Holiday
Submit two printed copies of your completed Research Memo 2 to Vida Eden and upload an electronic copy to Canvas by Monday at 9 a.m.

Week 15 November 26-30
No Class Good Luck on Finals!

Memorandum

To: LAWR Students

From: Professor Hayden

Re: False imprisonment analysis assignment

This assignment has two parts (1) critically read the two attached cases and (2) answer the following questions about Ms. Gerwin's potential claim. The case reading assignment is due the first day of class. The answers to the questions are due the second day of class. Please follow your small section professor's instructions for submitting each assignment.

Learning opportunities and objectives:

This assignment is an opportunity for you to learn basic legal analysis skills. Parts of this assignment will be unfamiliar to you. One goal of this assignment is for you to learn how to handle new information and tasks. When you encounter terms you are unfamiliar with, you should look them up in Black's Law dictionary. We will be learning legal analysis all year; this assignment is your first opportunity to work through the process on your own.

This assignment will introduce you to the following legal skills and concepts: (1) reading, understanding, and using cases; (2) understanding how legal rules are developed, how they work, and how they influence the legal analysis; and (3) organizing a legal argument with the traditional I/CRAC legal organization.

You will get more from this assignment if you read the assigned readings in your textbook and prepare questions and discussion points for class.

Assignment:

Your client Ms. Gerwin has asked you to estimate the strength of a potential lawsuit against Albert's Bookstore for false imprisonment. You need to do the following legal analysis so you can properly advise her.

After doing some research, you discover that the appellate courts of your jurisdiction, the state of Wayne [fictitious], have not decided any false imprisonment cases involving merchants, however, you have found two relevant cases from other jurisdictions, *Coblyn v. Kennedy's, Inc.*, 359 Mass. 319, 268 N.E.2d 860 (1971), and *Meadows v. Woolworth*, 254 F.Supp. 907 (N.D. Fla. 1966). You have also found the following relevant Wayne statute:

(2) If a . . . merchant's employee, with probable cause for believing that a person has committed a theft of property of a store, detains and interrogates the person in regard thereto, and the person thereafter brings against the . . . merchant or merchant's employee any civil . . . action based upon the detention and interrogation, such probable cause shall be a defense to the action, if the detention and interrogation were done in a reasonable manner and for a reasonable time.

Wayne Rev. Stat. § 131.655 (1982).

- I. Critically read and analyze the two attached cases: *Coblyn v. Kennedy’s, Inc.*, 359 Mass. 319, 268 N.E.2d 860 (1971), and *Meadows v. F.W. Woolworth Co.*, 254 F.Supp. 907 (N.D. Fla. 1966).**
1. For each authority (both cases and the statute), identify whether it is secondary or primary authority and explain why.
 2. For each authority, identify whether it is binding or persuasive and explain why.
 3. For each case, identify the following:
 - a. The plaintiff
 - b. The defendant
 - c. The court
 - d. *Optional:* label the structural components of the case as shown in chapter 2 of your textbook.
 4. For each case, identify and highlight the following:
 - a. The holding(s)
 - b. The court’s reasoning
 - c. Dicta
 5. For each case, identify or synthesize a rule—what rule of law governs the particular legal question, see chapter 2 of your textbook.
 6. For the statute, identify the rule and assess whether the rule includes an inventory of required “elements” that must be satisfied. If so, identify the elements. See chapter 3 of your textbook.

Most of the law you study during the first year consists of what lawyers call case law—the published opinions of American appellate courts. Case law plays a major role in legal analysis. You will rely heavily on it in this course as you build a foundation for legal reasoning, research, and writing methods. You must critically read case opinions to understand them and the role they play in your legal analysis. As you read these cases, think about how the holdings in the cases fit together, either by identifying the unifying principle that underlies them or identifying how they are inconsistent. If the cases each contain more than one holding, synthesize a rule for each. Your text explains caselaw.

I should warn you that these cases don’t appear in the clean form that you’d find in a casebook. Because this course focuses on the work lawyers do in law practice and you’ll be doing as a summer associate or during internships and clinics, we’ve given you both cases in forms that a practicing lawyer would find if he or she were researching the law of false imprisonment. Both cases are actual downloads from the online legal research company, Westlaw. The first case, *Coblyn v. Kennedy’s, Inc.*, appears as it would if you simply requested a download. The second case is a pdf made directly from the published law reports in the West National Reporter system (the ones you’ll learn to use in the law library), so it appears exactly as you’d see it in the printed law reports.

II. Using the statute, the *Coblyn* and *Meadows* cases, and the facts from Ms. Gerwin’s interview, answer the following questions about Ms. Gerwin’s potential false imprisonment claim.

1. Rule
 - a. Using *Coblyn*, *Meadows*, and Wayne Rev. Stat. § 131.655, identify the rule or rules most relevant to Ms. Gerwin’s potential claim.
 - b. Organize the rules by claim or defense.
 - c. List the elements of each claim or defense.
2. Issues
 - a. Based on the law and facts provided, identify the legal issues you must address to determine whether Albert’s Bookstore is liable to Ms. Gerwin for false imprisonment.
3. Application
 - a. For each issue, make the strongest argument you can that Ms. Gerwin should be able to establish Albert’s Bookstore’s liability to her for false imprisonment.
 - b. For each issue, make the strongest argument you can that Ms. Gerwin should not be able to establish Albert’s Bookstore’s liability to her for false imprisonment.
4. Legal Prediction
 - a. Do you think Ms. Gerwin’s or Albert’s Bookstore’s position is stronger in this case?
 - b. Explain why.
5. Legislative Policy
 - a. What is the apparent purpose of this statute?
 - b. How do you know this?
 - c. Does this apparent purpose offer greater support to Ms. Gerwin’s claim or to Albert’s defense? Explain why.

Memorandum

To: Legal Writing Students

From: Professor Hayden

Re: Ms. Gerwin client interview

Ms. Gerwin, a new client, has come to your firm wanting to sue Albert's Bookstore for detaining her in July of this year. Here are the facts, as Ms. Gerwin relates them:

Gerwin is a graduate student in the English Department of the University and teaches a section of freshman English. On the afternoon of July 2, 2010, Gerwin went to Albert's Bookstore looking for the new spy novel by the popular author, Robert Ludlum. When Gerwin could not find it on the shelves, she asked a store clerk, who told her that it was out of stock, but was on order. The clerk estimated that the store would have more copies within a week, and asked whether Gerwin wanted to reserve one. Gerwin replied that she would come back, but did not place an order for the book.

After browsing a little longer in the store, Gerwin left. On her way out of Albert's, Gerwin remembers her hay fever acting up, bringing on a fit of sneezing. She then stopped, reached into her pocket for the handkerchief that she normally carries there, drew it out, blew her nose, then continued out of the store. Just as Gerwin opened the door to leave Albert's, a large male store employee came up to Gerwin, grabbed Gerwin's arm, twisted it behind Gerwin, and in a harsh voice, said, "Please come with me." Gerwin remembers being pushed, rather than escorted, through the store and into a back room office. Because the employee was large (Gerwin estimates that the employee was 6'2" in height and 250 lbs. in weight), and because Gerwin was publicly embarrassed, Gerwin did not refuse to go and did not complain, but went quietly. Gerwin believes all the customers in the store observed this particular part of the incident; she specifically remembers that one of the students in her section of Freshman English was there. This student watched the entire incident, and seemed to Gerwin to be as horrified as Gerwin herself was. Gerwin describes her feelings at the time as being feelings of embarrassment and humiliation.

The office to which Gerwin was taken had a small sign on it, saying simply, "Manager." When Gerwin and the store employee reached this office, Gerwin asked what was going on, but the employee refused to answer any of Gerwin's questions until the manager came, which Gerwin thinks took about ten minutes (it seemed to her like eternity, she says). When the manager arrived, the manager asked the employee what had happened. The employee said she had observed Gerwin reaching for her pocket and that she suspected her of attempting to steal a calligraphy pen set, worth \$14.95, which was missing from the pen stand. Hearing this, the manager asked Gerwin to empty her pockets, which Gerwin did

without protest. Her pockets contained nothing unusual—above all, no pen set. Obviously embarrassed, the manager introduced himself as Don Trowder, apologized perfunctorily for the inconvenience, and explained to Gerwin that shoplifting was a big problem at Albert's. He said she appreciated Gerwin's cooperation, and told Gerwin that she was free to go.

Later that afternoon, Trowder called Gerwin at home and apologized further, explaining that Albert's had been sent a notice by the local police department, warning all merchants of a suspected shoplifter operating in the area. This notice described the suspected shoplifter as a 20-year old white female, approximately 5'9" in height and 150 lbs. in weight, with medium brown hair, a description that seemed to fit Gerwin. Trowder further explained that after Gerwin had left the store Trowder asked his assistant manager, Art Jenkins, the employee who had detained Gerwin in the first place, to explain how the mistaken detention of Gerwin had happened. Jenkins told Trowder (who related all this to Gerwin) that Jenkins was in "the crow's nest," a room adjoining the store, but raised about four feet above the normal floor level of the store, and glassed in with one-way mirrors. Store employees watch for shoplifters from this room. In the crow's nest, Jenkins had observed Gerwin, whom he saw as a brown-haired 20-year old white female of medium height and weight, suddenly reach into her pocket while standing near the pen rack. Jenkins then went down to the area and concluded that a pen set was missing. He therefore made a quick decision to detain Gerwin, who was in the process of leaving the store.

Jenkins and Trowder together later determined that the pen rack did indeed have one pen set fewer than before; a store clerk remembered selling it to a customer shortly before Gerwin entered the store. This was verified by checking the cash register tape, which lists all products purchased.

Gerwin was only somewhat mollified by this explanation and although she is not certain she will sue, she still wishes to know whether she has a false imprisonment claim against Albert's.

▶ Coblyn v. Kennedy's, Inc.,
Mass. 1971.

Supreme Judicial Court of Massachusetts, Suffolk.
Marius S. COBLYN
v.
KENNEDY'S, INC. et al.
Argued March 4, 1971.
Decided April 15, 1971.

Action in tort for false imprisonment. The Superior Court, Roy, J., denied defendants' motion for a directed verdict and entered judgment for plaintiff, and defendants took exceptions. The Supreme Judicial Court, Spiegel, J., held that under standard of reasonable grounds as measured by reasonably prudent man test, evidence warranted conclusion that defendant employee was not reasonably justified in believing that plaintiff was engaged in shoplifting.

Exceptions overruled.

West Headnotes

[\[1\] False Imprisonment 168](#) 🔑39

[168](#) False Imprisonment

[168I](#) Civil Liability

[168I\(B\)](#) Actions

[168k37](#) Trial

[168k39](#) k. Questions for Jury. [Most Cited Cases](#)

Facts that defendant employee stopped plaintiff as he stepped out of door of defendant department store, firmly grasped plaintiff's arm and told him that he had "better go back and see the manager", that there was another employee at his side, and that plaintiff was an elderly man and there were other people standing around staring at him constituted sufficient evidence of unlawful restraint to submit such question to jury in action for false imprisonment.

[\[2\] False Imprisonment 168](#) 🔑13

[168](#) False Imprisonment

[168I](#) Civil Liability

[168I\(A\)](#) Acts Constituting False Imprisonment and Liability Therefor

[168k9](#) Defenses

[168k13](#) k. Probable Cause. [Most Cited Cases](#)

[False Imprisonment 168](#) 🔑40

[168](#) False Imprisonment

[168I](#) Civil Liability

[168I\(B\)](#) Actions

[168k37](#) Trial

[168k40](#) k. Instructions. [Most Cited Cases](#)

Term "reasonable grounds" as used in false imprisonment statute contemplates the objective standard of whether facts available to "imprisoning" individual warrant man of reasonable caution in the belief that action taken was appropriate, and failure to give defendants' requested instruction stating, in effect, that proper test was subjective one, viz., whether defendant employee had honest and strong suspicion that plaintiff was committing or attempting to commit larceny, was properly refused in false imprisonment action. [M.G.L.A. c. 231, § 94B](#).

[\[3\] False Imprisonment 168](#) 🔑31

[168](#) False Imprisonment

[168I](#) Civil Liability

[168I\(B\)](#) Actions

[168k21](#) Evidence

[168k31](#) k. Weight and Sufficiency. [Most Cited Cases](#)

Under standard of reasonable grounds as measured by reasonably prudent man test, evidence in false imprisonment action warranted conclusion that defendant's employee was not reasonably justified in believing that plaintiff was engaged in shoplifting. [M.G.L.A. c. 231 § 94B](#).

***319 **860** Thomas R. Morse, Jr., Boston, for defendants.
Sumner Z. Kaplan, Boston (Julian Soshnick, Boston, with him) for plaintiff.

Before TAURO, C.J., and SPALDING, SPIEGEL, REARDON and BRAUCHER, JJ.

***320** SPIEGEL, Justice.

This is an action of tort for false imprisonment.^{FNI} At the close of the evidence the defendants filed a motion for directed verdicts which was denied. The jury returned verdicts for the plaintiff in the sum of \$12,500. The case is here on the defendants' exceptions to the denial of their motion and to the refusal of the trial judge to give certain requested instructions to the jury.

^{FNI}. Although there were several other counts in the original and amended declarations we are here concerned with only two counts; one against Kennedy's, Inc. and the other against one Gerald Goss.

We state the pertinent evidence most favorable to the plaintiff. On March 5, 1965, the plaintiff went to Kennedy's, Inc. ****861** (Kennedy's), a store in Boston. He was seventy years of age and about five feet four inches in height. He was wearing a woolen shirt, which was 'open at the neck,' a topcoat and a hat. '(A)round his neck' he wore an ascot which he had 'purchased * * * previously at Filenes.' He proceeded to the second floor of Kennedy's to purchase a sport coat. He removed his hat, topcoat and ascot, putting the ascot in his pocket. After purchasing a sport coat and leaving it for alterations, he put on his hat and coat and walked downstairs. Just prior to exiting through the outside door of the store, he stopped, took the ascot out of his pocket, put it around his neck, and knotted it. The knot was visible 'above the lapels of his shirt.' The only stop that the plaintiff made on the first floor was immediately in front of the exit in order to put on his ascot.

Just as the plaintiff stepped out of the door, the defendant Goss, an employee, 'loomed up' in front of him with his hand up and said: 'Stop. Where did you get that scarf?' The plaintiff responded, '(W)hy?' Goss firmly grasped the plaintiff's arm and said: '(Y)ou better go back and see the manager.' Another employee was standing next to him. Eight or ten other people were standing around and were staring at the plaintiff. The plaintiff then said, 'Yes, I'll go back in the store' and proceeded to do so. As he and Goss went upstairs to the second floor, ***321** the plaintiff paused twice because of chest and back pains. After reaching the second floor, the salesman from whom he had purchased the coat recognized him and asked what the trouble was. The plaintiff then asked: '(W)hy 'these two gentlemen stop me?'' The salesman confirmed that the plaintiff had purchased a sport coat and that the ascot belonged to him.

The salesman became alarmed by the plaintiff's appearance and the store nurse was called. She brought the plaintiff into the nurse's room and gave him a soda mint tablet. As a direct result of the emotional upset caused by the incident, the plaintiff was hospitalized and treated for a 'myocardial infarct.'

[1] Initially, the defendants contend that as a matter of law the plaintiff was not falsely imprisoned. They argue that no unlawful restraint was imposed by either force or threat upon the plaintiff's freedom of movement. [Wax v. McGrath, 255 Mass. 340, 342, 151 N.E. 317](#). However, '(t)he law is well settled that '(a)ny genuine restraint is sufficient to constitute an imprisonment * * * ' and '(a)ny demonstration of physical power which, to all appearances, can be avoided only by submission, operates as effectually to constitute an imprisonment, if submitted to, as if any amount of force had been exercised.' 'If a man is restrained of his personal liberty by fear of a personal difficulty, that amounts to a false imprisonment' within the legal meaning of such term.' [Jacques v. Childs Dining Hall Co., 244 Mass. 438, 438-439, 138 N.E. 843](#).

We think it is clear that there was sufficient evidence of unlawful restraint to submit this question to the jury. Just as

the plaintiff had stepped out of the door of the store, the defendant Goss stopped him, firmly grasped his arm and told him that he had 'better go back and see the manager.' There was another employee at his side. The plaintiff was an elderly man and there were other people standing around staring at him. Considering the plaintiff's age and his heart condition, it is hardly to be expected that with one employee in front of him firmly grasping *322 his arm and another at his side the plaintiff could do other than comply with Goss's 'request' that he go back and see the manager. The physical restraint imposed upon the plaintiff when Goss grasped the plaintiff's arm readily distinguishes this case from [Sweeney v. F. W. Woolworth Co.](#), 247 Mass. 277, 142 N.E. 50, relied upon by the defendants.

In addition, as this court observed in the [Jacques case, supra, at p. 441, 138 N.E. at p. 844](#), the 'honesty and veracity (of the **862 plaintiff) had been openly * * * challenged. If she had gone out before * * * (exonerating herself), her departure well might have been interpreted by the lookers on as an admission of guilt, or of circumstances from which guilt might be inferred. The situation was in the control of the defendant. The restraint or duress imposed by the mode of investigation * * * the jury could say was for the accomplishment of the defendant's purpose, even if no threats of public exposure or of arrest were made, and no physical restraint of * * * (the plaintiff) was attempted.' For cases in other jurisdictions, where the evidence tended to support the tort of false imprisonment, see [Clark v. Kroger Co.](#), 382 F.2d 562, 563 (7th Cir.); [Patrick v. Esso Standard Oil Co.](#), D.C.N.J., 156 F.Supp. 336, 340; [Daniel v. Phillips Petroleum Co.](#), 229 Mo.App. 150, 155, 73 S.W.2d 355; [Lukas v. J. C. Penney Co.](#), 233 Or. 345, 354, 378 P.2d 717.

The defendants next contend that the detention of the plaintiff was sanctioned by [G.L. c. 231, s 94B](#), inserted by St.1958, c. 337. This statute provides as follows: 'In an action for false arrest or false imprisonment brought by any person by reason of having been detained for questioning on or in the immediate vicinity of the premises of a merchant, if such person was detained in a reasonable manner and for not more than a reasonable length of time by a person authorized to make arrests or by the merchant or his agent or servant authorized for such purpose and if there were reasonable grounds to believe that the person so detained was committing or attempting to commit larceny of goods for sale on such premises, it shall be a defence to such action. If such goods had not been purchased and *323 were concealed on or amongst the belongings of a person so detained it shall be presumed that there were reasonable grounds for such belief.'

The defendants argue in accordance with the conditions imposed in the statute that the plaintiff was detained in a reasonable manner for a reasonable length of time and that Goss had reasonable grounds for believing that the plaintiff was attempting to commit larceny of goods held for sale.

It is conceded that the detention was for a reasonable length of time. See [Proulx v. Pinkerton's Natl. Detective Agency, Inc.](#), 343 Mass. 390, 392-393, 178 N.E.2d 575. We need not decide whether the detention was effected in a reasonable manner for we are of opinion that there were no reasonable grounds for believing that the plaintiff was committing larceny and, therefore, he should not have been detained at all. However, we observe that Goss's failure to identify himself as an employee of Kennedy's and to disclose the reasons for his inquiry and actions, coupled with the physical restraint in a public place imposed upon the plaintiff, an elderly man, who had exhibited no aggressive intention to depart, could be said to constitute an unreasonable method by which to effect detention. See [Lukas v. J. C. Penney Co.](#), 233 Or. 345, 352, 360, 378 P.2d 717.

[2] The pivotal question before us as in most cases of this character is whether the evidence shows that there were reasonable grounds for the detention. At common law in an action for false imprisonment, the defence of probable cause, as measured by the prudent and cautious man standard, was available to a merchant. [Standish v. Narragansett S.S. Co.](#), 111 Mass. 512, 517. [Jacques v. Childs Dining Hall Co.](#), 244 Mass. 438, 439, 138 N.E. 843. [Muniz v. Mehlman](#), 327 Mass. 353, 358, ^{FN2}99 N.E.2d 37. In enacting [G.L. c. 231, s 94B](#), the Legislature inserted the words, 'reasonable grounds.' Historically, the words 'reasonable grounds' and 'probable *324 cause' have been given the same meaning by the **863 courts. In the case of [United States v. Walker](#), 7 Cir., 246 F.2d 519, 526, it was said: "Probable cause' and 'reasonable grounds' are concepts having virtually the same meaning." The following cases have expressly stated that the words may be used interchangeably and without distinction. [Draper v. United States](#), 358 U.S. 307, 310, 79 S.Ct. 329, 3 L.Ed.2d 327. [United States v. Vasquez](#), D.C.N.Y., 183 F.Supp. 190, 193. [Smallwood v. Commonwealth](#), 305 Ky. 520, 524, 204 S.W.2d 945. [McKeon v. National Cas. Co.](#), 216 Mo.App. 507, 524, 270 S.W. 707. [Adams v. State](#), 137 Tex.Cr. 43, 46, 128 S.W.2d 41. [Stelloh v. Liban](#), 21 Wis.2d 119, 125, 124 N.W.2d 101. In the case of [Lukas v. J. C. Penney Co.](#), *supra*, at p. 361, 378 P.2d 717, the Oregon Supreme Court construed the meaning of the words 'reasonable grounds' in its 'shoplifting statute' as having the same mean-

ing as they have in a statute authorizing arrest without a warrant and applied the probable cause standard to the facts before it.

FN2. See [Carroll v. United States, 267 U.S. 132, 161, 45 S.Ct. 280, 288, 69 L.Ed. 543](#), where Chief Justice Taft, speaking for the majority of a divided court, said: ‘The necessity for probable cause in justifying seizures on land or sea, in making arrests without warrant for past felonies, and in malicious prosecution and false imprisonment cases has led to frequent definition of the phrase.’

The defendants assert that the judge improperly instructed the jury in stating that ‘grounds are reasonable when there is a basis which would appear to the reasonably prudent, cautious, intelligent person.’ In their brief, they argue that the ‘prudent and cautious man rule’ is an objective standard and requires a more rigorous and restrictive standard of conduct than is contemplated by [G.L. c. 231, s 94B](#). The defendants’ requests for instructions, in effect, state that the proper test is a subjective one, viz., whether the defendant Goss had an honest and strong suspicion that the plaintiff was committing or attempting to commit larceny.^{**FN3**}

FN3. The bill of exceptions recites that ‘(t)he defendants duly excepted to the failure of the Court to give their requested instructions 1, 2 and 3.’ These requests are as follows: ‘1. If the defendant Goss had a belief to the extent of an honest and strong suspicion that the plaintiff had committed larceny or was attempting to commit larceny of goods for sale on Kennedy’s premises, the jury should find that he acted reasonably. * * * 2. If the jury find the ascot * * * was concealed on or amongst the belongings of the plaintiff, they must find that the defendants had reasonable grounds to believe that larceny had been attempted or committed. 3. If the jury find that the defendant Goss reasonably suspected the plaintiff of theft or failing to pay for goods belonging to Kennedy’s, they must return verdicts for the defendants on all counts.’

The defendants’ brief refers only to request No. 1 although their argument appears to touch on the periphery of the remaining two requests.

***325** We do not agree. As we have attempted to show, the words ‘reasonable grounds’ and ‘probable cause’ have traditionally been accorded the same meaning. In the case of [Terry v. Ohio, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889](#), involving the question whether a police officer must have probable cause within the Fourth Amendment to ‘stop-and-frisk’ a suspected individual, the Supreme Court of the United States held that the ‘probable cause’ requirement of the Fourth Amendment applies to a ‘stop-and-frisk’ and that a ‘stop-and-frisk’ must ‘be judged against an objective standard: would the facts available to the officer at the moment * * * ‘warrant a man of reasonable caution in the belief’ that the action taken was appropriate? * * * Anything less would invite intrusions upon constitutionally guaranteed rights based on nothing more substantial than inarticulate hunches, a result this Court has consistently refused to sanction.’ Pp. 21-22, [88 S.Ct. p. 1880](#).

If we adopt the subjective test as suggested by the defendants, the individual’s right to liberty and freedom of movement would become subject to the ‘honest * * * suspicion’ of a shopkeeper based on his own ‘inarticulate hunches’ without regard to any discernible facts. In effect, the result would be to afford the merchant even greater authority than that given to a police officer. In view of the well established meaning of the words ‘reasonable grounds’ we believe that the Legislature intended to give these words their traditional****864** meaning. This seems to us a valid conclusion since the Legislature has permitted an individual to be detained for a ‘reasonable length of time.’ This would be at least analogous to a ‘stop’ within the meaning of the Terry case.^{**FN4**}

FN4. See [Terry v. Ohio, supra, at p. 19, 88 S.Ct. at p. 1879](#), where the Supreme Court rejects ‘the notions that the Fourth Amendment does not come into play at all as a limitation upon police conduct if the officers stop short of something called a ‘technical arrest.’“ At p. 19, fn. 16, [88 S.Ct. at p. 1879](#), the court states that ‘(o)nly when the officer, by means of physical force or show of authority, has in some way restrained the liberty of a citizen may we conclude that a ‘seizure’ has occurred.’

We also note that the Terry case allows ‘a reasonable search for weapons for the protection of the police officer, where he has reason to believe that he is dealing with an armed and dangerous individual, regardless of whether he has probable cause to arrest the individual for a crime.’ Even in such circumstances, however, the court said that ‘in determining whether the officer acted reasonably in such circumstances, due weight must be given, not to his inchoate and unparticularized suspicion or ‘hunch,’ but to the specific reasonable inferences which he is entitled to draw from the facts in light of his experience.’ P. 27, [88 S.Ct. at p. 1883](#).

*326 We also note that an objective standard is the criterion for determining probable cause or reasonable grounds in malicious prosecution and false arrest cases. [Bacon v. Towne, 4 Cush. 217, 238-239](#). [Wax v. McGrath, 255 Mass. 340, 343, 151 N.E. 317](#). We see no valid reason to depart from this precedent in regard to cases involving false imprisonment.

[3] Applying the standard of reasonable grounds as measured by the reasonably prudent man test^{FN5} to the evidence in the instant case, we are of opinion that the evidence warranted the conclusion that Goss was not reasonably justified in believing that the plaintiff was engaged in shoplifting. There was no error in denying the motion for directed verdicts and in the refusal to give the requested instructions.

[FN5](#). The test for determining probable cause or reasonable grounds was established long ago in [Bacon v. Towne](#), supra, at pp. 238-239, where Chief Justice Shaw wrote: ‘Probable cause is such a state of facts * * * as would lead a man of ordinary caution and prudence to believe, or entertain an honest and strong suspicion, that the person arrested is guilty’ (emphasis supplied).

We also note here that the defendants incorrectly rely on certain language in the case of [Pihl v. Morris, 319 Mass. 577, 580, 66 N.E.2d 804, 806](#), to support their argument that only ‘an honest and strong suspicion’ is needed rather than ‘reasonable grounds.’ That case states that “an honest and strong suspicion’ is a necessary part of probable cause’ (emphasis supplied).

Exceptions overruled.

Mass. 1971.
Coblyn v. Kennedy's, Inc.
359 Mass. 319, 268 N.E.2d 860, 47 A.L.R.3d 991

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under 18 U.S.C.A. § 5010(b) cannot be held more than six years from the date of his conviction, and so, in effect, receives credit for the time spent on parole even though his parole may have been revoked. That is because section 5017(c) provides:

"A youth offender committed under section 5010(b) of this chapter shall be released conditionally under supervision on or before the expiration date of four years from the date of his conviction and shall be discharged unconditionally on or before six years from the date of his conviction."

[3, 4] The applicable provision of the Juvenile Delinquency Act, 18 U.S.C.A. § 5034, reads as follows:

"If the court finds a juvenile to be a delinquent, it may place him on probation for a period not exceeding his minority, or commit him to the custody of the Attorney General for a like period.

"Such commitment shall not exceed the term which might have been imposed had he been tried and convicted of the alleged violation."

The proper construction of this provision is that a juvenile delinquent may not be held beyond his twenty-first birthday, but that if he is paroled and violates his parole, the time spent on parole is not credited against the term which might have been imposed had he been tried and convicted of the alleged violation, in this case, five years. No judicial decision one way or the other has been found, but the conclusion reached by this Court is supported by the Desk Book for Sentencing, distributed under the authority of a committee of the Judicial Conference of the United States, p. V-19.¹

[5] Fish also contends that his minority ended when he became eighteen years

1. It may also be noted that the Youth Correction Act in 18 U.S.C.A. § 5023(b) states:

"Nothing in this chapter shall be construed in any wise to amend, repeal, or affect the provisions of chapter 403 of this title (the Federal Juvenile

of age, because under 18 U.S.C.A. § 5031 a "juvenile" is defined as "a person who has not attained his eighteenth birthday". There is no merit in this contention. The "minority" of a juvenile delinquent ends when he becomes twenty-one years of age. *United States v. Flowers*, W.D. Tenn., 227 F.Supp. 1014 (1963), affirmed 6 Cir., 331 F.2d 604 (1964).

Relief under the motion and petition filed by Fish is hereby denied.

The Clerk is directed to send a copy of this memorandum and order to Fish and to the United States Attorney.



Carol Ann MEADOWS, a minor, by her father and next friend, **William H. Meadows**, Plaintiff,

v.

F. W. WOOLWORTH COMPANY, a corporation, Defendant.

Lella Ann TORBIT, a minor, by her mother and next friend, **Connie Parmer**, Plaintiff,

v.

F. W. WOOLWORTH COMPANY, a corporation,
Civ. A. Nos. 621, 622.

United States District Court
N. D. Florida,
Marianna Division.

June 6, 1966.

Actions for false imprisonment. The District Court, Carswell, Chief Judge, held that where manager of store had probable cause to momentarily detain three girls, he called to girls who had

Delinquency Act), or limit the jurisdiction of the United States courts in the administration and enforcement of that chapter except that the powers as to parole of juvenile delinquents shall be exercised by the Division."

just stepped outside and asked them to come inside, his manner was neither harsh nor abusive and he made no threats but asked if he could look in their purses and examined two of them, store was not liable for false imprisonment.

Motion of defendant for summary judgment granted.

1. False Imprisonment ¶5

Under Florida law, restraint of person giving rise to false imprisonment can be accomplished by threats as well as force.

2. False Imprisonment ¶13

Where defendant merchant's manager had been warned by police official to be on lookout for teenage girls believed to be shoplifting, he noticed that two hair pieces were missing and he was told by clerk that three girls, whom manager had noticed in the store, had been near the hair piece counter, manager had probable cause for momentarily detaining the girls without rendering merchant liable for false imprisonment. F.S.A. § 811.022.

3. False Imprisonment ¶13

Where manager of store had probable cause to momentarily detain three girls, he called to girls who had just stepped outside and asked them to come inside, his manner was neither harsh nor abusive and he made no threats but asked if he could look in their purses and examined two of them, store was not liable for false imprisonment. F.S.A. § 811.022.

Logue & Bennett, Panama City, Fla.,
for plaintiff.

Isler & Welch, Panama City, Fla., for
defendant.

ORDER

CARSWELL, Chief Judge.

This matter came on for consideration on respective motions for summary judg-

ment in each of the above-entitled cases filed by the defendant, Woolworth Company. Basically, what is involved here is the application of Florida Statutes 811.022, F.S.A., the Florida shoplifting statute, to the undisputed facts in the record. The subject statute exonerates from liability for false imprisonment defendant-merchants who detain business visitors in a reasonable manner for the purpose of recovering goods said merchant has probable cause for believing were taken unlawfully by said business visitor.

The undisputed facts are these:

Defendant's manager, Wingate, was warned by police official of Panama City several days prior to the incident complained of to be on the lookout for teenage girls believed to be shoplifting. The exact nature of this discussion by Wingate and the police is somewhat vague in some particulars although it is clear and undisputed that Wingate was given warning of organized shoplifting activities by teenage girls in the area. Wingate's testimony was corroborated by affidavit of one James Crowley, manager of a neighboring merchandising establishment, to the effect that they were to be especially on the lookout for three teenage girls operating jointly, two dark haired and one blonde.

On the day in question the two plaintiffs, together with a companion were in Woolworth's on two different occasions and had been walking around looking at various merchandise. Around 4:30 P.M. Wingate noticed that two hair pieces were missing. He noticed the three girls and asked the clerk if those three had been near the hair piece counter. The clerk responded that the girls had been near the subject counter. The three girls according to Wingate's evaluation generally fit the description of the teenage girls discussed by him and the policeman earlier and as corroborated by Crowley.

Wingate went to the front entrance and called to the girls who had just stepped outside asking them to come inside. The testimony is in complete accord that the manager's manner was neither harsh nor

Cite as 254 F.Supp. 909 (1966)

abusive and that no threats were made by him at all. He asked if he could look in their purses. Again all the testimony is in agreement that the manager's tone was conversational only. Plaintiff Meadow's own statement was that she went into the store of "my own free will," although she did so out of respect to an adult. After examining the two of the three purses the manager discontinued his search, and some time later offered a partial explanation of his activities in this regard. The testimony shows that the girls were in the store an interval of 3-10 minutes, 10 minutes being the maximum time estimated by one witness.

[1] Under Florida law the restraint of a person giving rise to false imprisonment can be accomplished by threats as well as force. *Lewis v. Atlantic Discount Co.*, 99 So.2d 241 (1st D.C.A.Fla.1957). All of the testimony here is in accord that there were no threats made nor can the Court find any such inference in any activities at the time and place. Therefore, the restraint element, if here at all, would necessarily reside in a compulsion of a teenage girl by an adult to "come here."

Florida Statutes 811.022(1), F.S.A. provides that a "merchant's employee who has probable cause for believing that goods * * * have been unlawfully taken by a person and that he can recover them by taking the person into custody, may, for the purpose of attempting to effect such recovery, take the person into custody and detain him in a reasonable manner for a reasonable length of time. Such taking into custody * * * shall not render such * * * merchant's employee criminally or civilly liable for * * * false imprisonment * * *." Nor is the merchant liable.

[2, 3] The Court determines that there is no genuine issue as to any material fact here and that the defendant is entitled to judgment as a matter of law under the provisions of Rule 56, Federal Rules of Civil Procedure, it affirmatively appearing that the manager, Wingate, did indeed have probable cause for momentarily detaining the subject plain-

tiffs for searching and interrogating in an attempt to recover articles reasonably thought by him to have been unlawfully taken. The momentary detention was certainly reasonable in time and the searching of the pocketbooks was clearly accomplished without any objection on the part of the two girls involved.

It is, therefore, upon consideration, hereby

Ordered that motion of defendant for summary judgment be and it is hereby granted.



In the Matter of the Application for a Writ of Habeas Corpus by Charles TERRY, Petitioner,

v.

Hon. Wilfred L. DENNO, as Warden, Sing Sing Prison, Ossining, New York, and Hon. Frank S. Hogan, District Attorney, County of New York, New York, New York, Respondents.

No. 65 Civ. 3721.

United States District Court
S. D. New York.

May 18, 1966.

Petition by state prisoner for habeas corpus. The District Court, Weinfeld, J., held that petition should be denied where prisoner had failed, before seeking relief in federal court, to present all his claims and to exhaust his remedies in state court where he could have obtained a full consideration of the case.

Petition dismissed.

1. Habeas Corpus §45.3(1)

Petition for habeas corpus by state prisoner should be denied where prisoner had failed, before seeking relief in federal court, to present all his claims and to exhaust his remedies in state court

Memorandum

To: LRW Students

From: Professor Hayden

Re: False imprisonment analysis assignment III

This assignment has three parts (1) critically read the two attached cases, (2) answer the questions about Ms. Gerwin's potential claim, and (3) compare your work to your work on the previous false imprisonment and reflect on. Please follow your small section professor's instructions for submitting each assignment.

Learning opportunities and objectives:

This assignment is an opportunity for you to reflect on the legal analysis skills you have learned. We will be learning legal analysis all year; this assignment is an opportunity for you to assess on where you are in that process.

Assignment:

Your client Ms. Gerwin has asked you to estimate the strength of a potential lawsuit against Albert's Bookstore for false imprisonment. You need to do the following legal analysis so you can properly advise her.

After doing some research, you discover that the appellate courts of your jurisdiction, the state of Wayne [fictitious], have not decided any false imprisonment cases involving merchants, however, you have found two relevant cases from other jurisdictions, *Coblyn v. Kennedy's, Inc.*, 359 Mass. 319, 268 N.E.2d 860 (1971), and *Meadows v. Woolworth*, 254 F.Supp. 907 (N.D. Fla. 1966). You have also found the following relevant Wayne statute:

(2) If a . . . merchant's employee, with probable cause for believing that a person has committed a theft of property of a store, detains and interrogates the person in regard thereto, and the person thereafter brings against the . . . merchant or merchant's employee any civil . . . action based upon the detention and interrogation, such probable cause shall be a defense to the action, if the detention and interrogation were done in a reasonable manner and for a reasonable time.

Wayne Rev. Stat. § 131.655 (1982).

I. Critically read and analyze the two attached cases: *Coblyn v. Kennedy's, Inc.*, 359 Mass. 319, 268 N.E.2d 860 (1971), and *Meadows v. F.W. Woolworth Co.*, 254 F.Supp. 907 (N.D. Fla. 1966).

1. For each authority (both cases and the statute), identify whether it is secondary or primary authority and explain why.
2. For each authority, identify whether it is binding or persuasive and explain why.

3. For each case, identify the following:
 - a. The plaintiff
 - b. The defendant
 - c. The court
 - d. *Optional*: label the structural components of the case as shown in chapter 2 of your textbook.
4. For each case, identify and highlight the following:
 - a. The holding(s)
 - b. The court's reasoning
 - c. Dicta
5. For each case, identify or synthesize a rule—what rule of law governs the particular legal question, see chapter 2 of your textbook.
6. For the statute, identify the rule and assess whether the rule includes an inventory of required “elements” that must be satisfied. If so, identify the elements. See chapter 3 of your textbook.

II. Using the statute, the *Coblyn* and *Meadows* cases, and the facts from Ms. Gerwin's interview, answer the following questions about Ms. Gerwin's potential false imprisonment claim.

1. Rule
 - a. Using *Coblyn*, *Meadows*, and Wayne Rev. Stat. § 131.655, identify the rule or rules most relevant to Ms. Gerwin's potential claim.
 - b. Organize the rules by claim or defense.
 - c. List the elements of each claim or defense.
2. Issues
 - a. Based on the law and facts provided, identify the legal issues you must address to determine whether Albert's Bookstore is liable to Ms. Gerwin for false imprisonment.
3. Application
 - a. For each issue, make the strongest argument you can that Ms. Gerwin should be able to establish Albert's Bookstore's liability to her for false imprisonment.
 - b. For each issue, make the strongest argument you can that Ms. Gerwin should not be able to establish Albert's Bookstore's liability to her for false imprisonment.
4. Legal Prediction
 - a. Do you think Ms. Gerwin's or Albert's Bookstore's position is stronger in this case?
 - b. Explain why.
5. Legislative Policy
 - a. What is the apparent purpose of this statute?
 - b. How do you know this?
 - c. Does this apparent purpose offer greater support to Ms. Gerwin's claim or to Albert's defense? Explain why.

III. Reflect on what you have learned this semester and how to improve next semester.

1. Compare your work on this assignment to your work on the previous false imprisonment assignments.
2. Answer the following questions regarding your learning in this course:
 - a. What can I do now that I couldn't do before?
 - b. What am I most proud of?
 - c. What learning opportunities helped me the most?
 - d. What learning opportunities did I not take advantage of?
 - e. What should I do differently to learn more next semester?
 - f. What should I do again to learn more next semester?
 - g. What did I learn are my greatest strengths? My biggest areas for improvement?

SYLLABUS

Prof. Hayden
Legal Analysis, Writing, & Research
2019-2020

This course syllabus sets out the expectations and policies for the fall and spring semesters. Schedules for each semester will be posted on Canvas. Please read all of the syllabus – you are responsible for the information contained in it.

Course Learning Opportunities and Objectives

The course will provide you many learning opportunities, including (1) being introduced to important legal concepts through your readings and class; (2) applying these concepts in low-stakes exercises and assignments; (3) building on and improving these skills through multiple attempts; (4) learning through your graded assignments with your professor; (5) engaging with the material on your own; and (6) writing a final paper to assess your learning.

The goal of this course is to develop your ability to think like a lawyer and introduce you to the work lawyers do. The primary objective is to provide you with a strong foundation in legal reasoning, writing, and research methods. We will teach you how lawyers objectively analyze legal issues to predict outcomes, communicate advice, and resolve client problems. In the spring, we will introduce you to persuasive writing, trial advocacy, and oral argument.

Why learn legal analysis through writing? Writing enhances our ability to engage in critical thinking. Only by writing down our thoughts can we distance ourselves from them and critically evaluate the logic and consistency of our analysis. It allows us to see our ambiguities and fallacies from our reader's perspective. Legal analysis is a recursive process of critical thinking, researching, and writing.

Course Overview

You have been assigned to a small group that will be taught by practicing attorney with many years of law-practice experience. You will meet with your group twice a week both semesters. Information about your group and small-group professor is on Canvas.

You have also been assigned to one of three legal research sections that are taught by members of the law library faculty. In these classes, you will learn about specific legal resources, effective search strategies, and the proper use of primary and secondary authorities.

Your citation training will be in a program called The Interactive Citation Workstation, which is keyed to the optional workbook, The Interactive Citation Workbook for the Bluebook. You will complete the online citation exercises as set out below. They are due the Friday of the week assigned.

The writing assignments are designed to teach you important analytical and writing skills. They build upon each other. The weight of each assignment increases as we progress through the semester. This is to allow you to learn basic legal concepts and skills before a high-stakes assignment. Each semester ends with a final assessment of your legal analysis, writing, and research. Our expectations of your understanding of basics legal concepts, analysis, writing, and research will increase with each assignment.

The Little Book on Legal Writing will instruct you on grammar and style in the legal context. The text is

assigned by chapters throughout the fall semester. You may want to read it in one setting. You will want to consult it as you write your papers in the fall and spring semesters. We will expect you to follow the principles set out in *The Little Book* in all your writing assignments.

Your textbooks will introduce and explain important legal concepts and skills. You may need to read some chapters more than once and at different times throughout the course to fully understand these concepts. The textbooks will be a resource when you are working on your assignments on your own. Class is the time to ask questions about the readings and the analysis process. Class will include lectures, in-class exercises, and discussions; you should come to class ready to participate and work.

Your fall text explains incremental and experiential learning models on pages 5-7.

Out-of-class work & Attendance

Much of the learning in this course happens during the analysis and writing process, out-of-class. It is your responsibility to engage with the material and be an active learner.

The ABA requires students to spend approximately two hours studying out of class for every hour spent in class. Frankly, you should spend much more time than that learning these skills. Mastering these skills takes effort and practice. In the beginning, the writing assignments will be time consuming, but as your legal research and analysis skills improve, so will your ability to communicate your analysis in writing.

Professionalism is stressed in this course, so regular attendance to all class sessions is required. You may be absent three times for personal reasons throughout each semester. If you exceed three absences in one semester, your final grade will be reduced unless Associate Dean Pearce excuses the absence.

Office Hours

Your small section professors will maintain office hours at the College of Law throughout the semester. They will let you know these office hours.

Your legal research professor will provide you with contact information.

Although my office door is always open, it's usually a good idea to see your own instructor first for any questions or concerns you have about assignments you are doing for them. You may make appointments with them directly. If, after discussing your work with your professor, you are still concerned, please feel free to see me.

Use of the UNL Writing Center

UNL has a writing center, a place for students to talk about their writing with trained peer consultants. We encourage you to seek assistance from the consultants at the writing center. For opportunities to meet with a consultant, please check the writing center's website at <https://www.unl.edu/writing/home>.

Writing Assignment Policy – Honor Code

You must work alone on assignments unless otherwise instructed. You may not discuss the assignments with, or receive assistance from, any person other than the following: (1) a legal writing professor, (2) a legal writing teaching assistant, (3) a law librarian, and (4) a writing consultant at the UNL Writing Center. This prohibition covers all communications, even those online or in electronic form. If you are permitted to work with other students, you will be specifically so instructed by your professor.

A violation of the rules regarding discussions/assistance on any assignment is an honor code violation.

Your fall text explains the ethical standards of law practice and plagiarism in an academic environment on pages 2-4. Please review these pages. If you have any questions about our expectations, please ask.

Legal Writing Grading

Your small-group legal writing professor will be primarily responsible for your grade on the graded legal writing assignments. For each graded assignment, your professor will give you a raw score. At the end of the year, I will average all those scores, giving them all the weight you see below, then will assign grades to all students on the Law College's 9-point grading scale. When I do this, I'll use the same grade distribution curve for each of the small sections. Your final grades will be curved; this means that your grade for the course will be a function of your relative standing within your small section. The overall grade curves in the small sections will be as similar as I can make them from one section to the next.

To receive credit for the course, all assignments, graded and non-graded, must be completed satisfactorily.

Assignments

Over the course of the year you will complete seven graded assignments. I will compute a weighted average of your seven raw scores, giving them the following weight:

closed memorandum: 1/15
research memorandum #1: 2/15
research memorandum #2: 3/15
persuasive brief: 1/15
moot court brief #1: 2/15
moot court brief #2: 4/15
oral argument: 2/15

You will also have non-graded assignments as set out in the syllabus.

The research assignments will affect your grade as follows: your final course grade may be lowered by as much as 2 points (on the College's 9-point grading scale) for unsatisfactory performance during the legal research portion of the course. Any deductions will be based on nonparticipation during the lectures or poor work on assignments. You will be provided with more detailed grading information for legal research assignments from your legal research professor.

All assignments, including research assignments, must be submitted timely. In practice, being late has real consequences for your clients and for you—a client may lose a case if you file a pleading or show up to court late, which may result in malpractice.

Late submissions will be subject to the following penalties:

- Ten percent (10%) will be deducted from the grade of any work submitted after the deadline and within the first 3 hours after the deadline for submission has passed. This includes late submissions because of your failure to read instructions, technological issues, printing issues, and other administrative errors.
- Twenty percent (20%) will be deducted from the grade of any work submitted after the first 3 hours

and within the first 24 hours after the deadline for submission has passed.

- Thirty percent (30%) will be deducted after the first 24 hours and within the first 48 hours after the deadline for submission has passed.
- An *additional* twenty percent (20%) will be deducted for each additional 24-hour period that has passed between the time the paper was due and the time of its submission (i.e., 48 hours-72 hours; 72 hours-96 hours; 96 hours-120 hours). These deductions will be cumulative.
- Any graded work that is more than 120 hours (five days) late, will receive a grade of “0” (zero).

Need an extension? All requests for extensions on graded work must be submitted to and approved by Assistant Dean Pearce. If you anticipate needing an extension, seek one early. Courts are much more understanding when attorneys request an extension *before* a deadline has passed. See, e.g., <http://ksd.uscourts.gov/index.php/local-rule/rule-6-1-time/> (“Absent a showing of excusable neglect, the court will not grant extensions requested after the specified time expires.”)

Make a mistake that caused a late submission? Everyone makes mistakes; what is important is how you handle them. When you make a mistake own it, fix it, learn from it, and move past it.

Please note Vida Eden’s work hours are Monday-Friday 7:30 a.m. to 4:00 p.m. You will not be able to turn pick up assignments from her after 4:00 p.m. Please turn in your research assignments as directed by your legal research professor on the first day of class.

Final Grades

Only M.L.S. candidates (who do not take a full year of Legal Research & Writing) will receive a mid-year grade in this course; J.D. candidates will receive a final grade for six credit hours at the end of the spring semester.

Accommodations for Students with Disabilities

If you think you will need any disability-related accommodation to succeed in this class, such as extended time for an assignment, help with note-taking, or any other accommodation, please contact Assistant Dean Marc Pearce and/or the Office of Services for Students with Disabilities as soon as possible for a confidential conversation.

FALL SCHEDULE

Prof. Hayden
Legal Research & Writing
Fall 2019

Texts and Materials for Legal Research and Writing, Fall 2019

Required

Legal Writing Custom Edition University of Nebraska (curated by Chelsi Hayden, Wolters Kluwer, 2018)

Dworsky, Alan L., *The Little Book on Legal Writing* (2d ed., William S. Hien & Co. Publishers, 2007)
[referred to as *The Little Book*]

The Harvard Law Review, *The Bluebook: A Uniform System of Citation* (20th ed., Harvard, 2015) [referred to as *The Bluebook*]

Voigt, Eric P., *Legal Research Demystified: A Step-by-Step Approach* (Carolina Academic Press, 2019).

Any required readings or materials posted on/linked from Canvas by your legal research professor

Recommended, but not required

Additional readings and material posted on Canvas

To supplement your ICW online exercises, you may purchase the companion workbook, Tracy L. McGaugh Norton and Christine Hurt, *Interactive Citation Workbook for The Bluebook: A Uniform System of Citation* (LexisNexis, 2016).

Garner, Brian A., ed., *Black's Law Dictionary* [hardbound] (10th ed. Thomson/West Publishers 2014)

Your text is a compilation of the following text; they are on reserve in the Library:

- *Just Memos: Preparing for Practice*, Fifth Edition, by Laurel Currie Oates and Anne Enquist
- *The Mindful Legal Writer: Mastering Predictive Writing*, Heidi K. Brown
- *Legal Writing*, Third Edition, Richard K. Neumann, Jr., J. Lyn Entrikin and Sheila Simon
- *Legal Writing: Process, Analysis, and Organization*, Seventh Edition, by Linda H. Edwards

Educational materials and software that may help you learn, including Cali, Quimbee, and Grammarly.

Class Sessions and Assignments

To receive credit for the course, all assignments, graded and non-graded, must be completed satisfactorily.

Fall 2019

Week 1 August 26-30

Topic	Class Assignments—bring to class unless told otherwise	Out of Class Assignments—due or available as noted
Class 1: Introduction to Legal Analysis	Read Text intro, chpts 1-3; The Little Book chpts 1 & 6	False imprisonment assignment part I, submit to your small section professor as directed on the first day of class.
Class 2: Introduction to Legal Rules	Read Text chpts 4-6	False imprisonment assignment part II, submit to your small section professor as directed
Research class: Introduction to Legal Research & Legal Authority. Cases & Citators.	Voigt text pages 1-14; 17-25; 29-45 (excluding section G); 145-162. Review figures 9.1 (p. 174) and 9.11 (p. 185) and Appendices A & B (starting on p. 331). Other required research readings are posted in Canvas.	Assignment 1 available.

Week 2 September 2-6

Topic	Class Assignments	Out of Class Assignments
Class 1: Understanding Legal Rules	Read Text chpts 7-9; The Little Book chpts 2 & 3 Write a rule for the issue of whether Albert's falsely imprisoned Gerwin.	ICW online exercise one (case names)
Class 2: Rule Explanation	Read Text chpts 10-13 Write a rule for the issue of whether Albert's has a defense to a claim for false imprisoned by Gerwin.	
Research class: No Class, Labor Day		

Week 3 September 9-13

Topic	Class Assignments	Out of Class Assignments
Class 1: Introduction to Rule Application	Read Text chpts 14-15; The Little Book chpts 4 & 5 Write a rule application on the two issues of whether Albert's falsely imprisoned Gerwin and whether Albert's has a defense to a claim for false imprisoned by Gerwin.	Closed Memo Assignment available on Canvas Monday at 9 a.m.
Class 2: Rule Application cont.		ICW online exercise two (case location)

Research class: Statutes & Regulations	Voigt text pages 49-64 (excluding section G); 275-283. Other required research readings are posted are posted in Canvas.	Assignment 1 due by the beginning of class. Assignment 2 available.
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Week 4 September 16-20		
Topic	Class Assignments	Out of Class Assignments
Class 1: Legal Organization	Read Text chpts 16-18	Closed Memo DUE Monday by 9 a.m. Submit [add instructions for Box collection] Collaborative Memo Assignment available on Canvas Friday at 9 a.m.
Class 2: Drafting the Discussion	Read Text chpt 19	ICW exercise three (court and date)
Research class: Secondary Resources	Voigt text pages 82-117. Other required research readings are posted are posted in Canvas.	Assignment 2 due by the beginning of class. Assignment 3 available.

Week 5 September 23-27		
Topic	Class Assignments	Out of Class Assignments
Class 1: Drafting the Discussion cont.	Read Text chpt 20; The Little Book chpt 13	Collaborative Memo DUE. [BOX Submission] by Friday at 5 p.m. Research Memo 1 Assignment available on Canvas Friday at 9 a.m. Closed Memo returned, pick up from Vida Eden after 9 a.m. Friday
Class 2: Issue Statement and Brief Answer	Read Text chpt 21 Draft an issue statement and brief answer for the Closed memo	ICW online exercise four (parallel citations)
Research class: Research Plans, Search Strategies, and Research Logs.	Voigt text pages 71-78; 209-210 (excluding section B); Appendix C (starting on p. 335). Other required research readings are posted are posted in Canvas.	Assignment 3 due by the beginning of class. Assignment 4 available.

Week 6 September 30-October 4		
Topic	Class Assignments	Out of Class Assignments
Class 1: Collaborative Review	Read Text chpt 23-24; The Little Book chpts 7 & 8 Be prepared to discuss your collaborative assignment.	ICW exercise five (short forms for cases)
Class 2: No class		
Research class: No Class		

Week 7 October 7-11		
Topic	Class Assignments	Out of Class Assignments
Class 1: Closed Memo Review	Read Text chpt 22; The Little Book chpt 12 Be prepared to discuss your closed memo assignment.	
Class 2: No class		
Research class: Putting it all together using the closed memo	Bring a copy of your closed memo to class	Assignment 4 due by the beginning of class.

Week 8 October 14-18		
Topic	Class Assignments	Out of Class Assignments
Class 1: TBA	Read Text chpt 25	
Class 2: No class		
Research class: No Class		

Week 9 October 21-25		
Topic	Class Assignments	Out of Class Assignments
Class 1: TBA		Research Memo 1 DUE Tuesday by 9 a.m. [add instructions for Box collection]. Monday is Fall Break.
Class 2: No class		Research Memo 2 Assignment available on Canvas Tuesday at 9 a.m.
Research class: No Class		

Week 10 October 28-November 1		
Topic	Class Assignments	Out of Class Assignments
Class 1: TBA	Read The Little Book chpts 9, 10, & 11	
Class 2: TBA		
Research class: No Class		

Week 11 November 4-8		
Topic	Class Assignments	Out of Class Assignments
Class 1: Deepening the Analysis	Read The Little Book chpt 14 & 15	ICW exercise eleven (Secondary Sources)
Class 2: Deepening the Analysis cont.		

Research class: Putting it all together Using Research Memo 1	Come to class prepared to discuss research assignment 4.	
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Week 12 November 11-15

Topic	Class Assignments	Out of Class Assignments
Class 1: Deepening Analysis cont.	Read Text chpt 26-27 Come to class prepared to discuss the rules and application of Research Memo 1.	Research Memo 1 returned, pick up from Vida Eden after 9 a.m. Tuesday
Class 2: Rewriting Research Memo 1	Review Text chpt 19 Come to class prepared to discuss the rules and application of Research Memo 1.	ICW online exercise twelve (Parentheticals)
Research class: No class		

Individual Meetings with Professor

Week 13 November 18-22

Topic	Class Assignments	Out of Class Assignments
Class 1: Reflection	Read Text pages chpt 28-29 In-class False Imprisonment Assignment II	
Class 2: Evaluations & Revising for Style and Usage	Review Text chpt 25; the Little Book chpts 1-13 Bring a copy of your memo draft to class and be prepared to revise it.	
Research class: No class		

Individual Meetings with Professor

Week 14 November 25-29

No class—Thanksgiving Holiday
Research Memo 2 DUE Monday by 9 a.m. [add instructions for Box collection]

**Responsibilities and Expectations
Legal Analysis, Writing, and Research
2019-2020**

The responsibilities for 2019-2020 reflect the Law College's focus on student learning and achievement by strengthening course content and teaching efficacy. The title of the course has been changed to Legal Analysis, Writing, and Research to more accurately reflect the learning objectives of the course.

Continue to use new learning tools and LAWR pedagogy. Work to improve the content of our lectures, effectiveness of our teaching methods, communication of our pedagogical goals, and our assessment of student work. To do this, adjuncts are encouraged to: attend conferences or read about LAWR pedagogy and learning theories; develop lectures and class discussion to encourage student engagement and participation; create active learning and in-class exercises; assist the director to create and finalize assignments; share materials and teaching expertise with each other.

Attend retreat and teaching meetings. Attend pre-semester retreat and group meetings to discuss the upcoming lessons and assignments, share teaching materials, address student issues, and finalize assignments.

Learn and use Law College technology. Administration is trying to streamline the various technology of the Law College and would like us to use Canvas, Box, and Zoom.

Provide weekly classroom instruction. Teach two small-section classes per week each semester based on the syllabus, assignments, textbooks, and course materials provided by the director.

Read and use all of the assigned legal writing texts. Teach from the texts, be familiar with and able to explain to the students the language and examples in the texts, and refer to and point students to helpful information in the texts. If an adjunct believes a text is not useful or conflicts with his or her instruction, he or she should consult with the director so together they can address the issue and handle it in a way that will not confuse or mislead the students.

Communicate learning opportunities. The Law College is working to explicitly connect coursework with the Learning Outcomes for its Juris Doctorate program (<https://law.unl.edu/learning-outcomes/>). To facilitate this, LAWR instructors should explicitly tell students the principles behind the structure of the course and assignments and the learning goals of each assignment.

Create teaching materials. Adjuncts are encouraged to be innovative in devising different ways to approach our common materials and in creating supplementary materials of their own.

Provide citation instruction. Provide instruction on legal citations and overseeing the students' IWC exercises. Adjuncts also grade citations as part of the written assignments. Teaching assistants are available to help with this.

Grade, review, and critique student work. Grade written and oral student work based on the pedagogical goals, instructions, and allocated points of each assignment. Carefully critique and provide specific feedback on assignments throughout the year. Feedback should explain the grade and how the student can improve his or her work. Feedback can be provided in a variety of ways as long as the form of feedback meets the pedagogical goals of the assignment. For the open memorandum and brief assignments, adjuncts must provide written feedback specifically tailored to improve the individual student work. For oral argument assignments, adjuncts must judge and grade the students' oral argument performance, although additional judges may provide feedback to the students. The Law College encourages adjuncts to provide individual feedback through one-on-one student conferences and live-grading when appropriate.

Hold office hours and student conferences. Conduct one-on-one student conferences and be available to answer student questions and explain feedback. Adjuncts must hold student conferences after students have received written feedback on the objective open memorandum and the first brief assignment. These conferences should be designed to help students develop a deeper analysis of the legal issues and improve their writing on these assignments.