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# Providing Structure to Law Students — Introducing the Programmed Learning Sequence as an Instructional Tool

*Robin A. Boyle*\*

*Lynne Dolle*\*\*

## INTRODUCTION

In the past few decades, legal academics have spawned writings about changing law school teaching methods from the traditional Socratic and case method to alternative approaches.<sup>1</sup> Some

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\*\* Ed.D., St. John's University School of Education and Human Services, 2000; M.S. in Special Education, College of New Rochelle, 1994; M.S. in Early Childhood Education, Bank State College, 1974; B.A., Hunter College, 1966. Dr. Dolle has been teaching and conducting workshops since 1981. Our study formed the basis of her dissertation submitted in partial fulfillment of the requirements for her degree as a Doctor of Education. *Infra* n. 5.

<sup>1</sup> *E.g.* Robin A. Boyle & Rita Dunn, *Teaching Law Students through Individual Learning Styles*, 62 Alb. L. Rev. 213, 217–223 (1998) (providing a historical overview); Barbara J. Busharis & Suzanne Rowe, *The Gordian Knot: Uniting Skills and Substance in Employment Discrimination and Federal Taxation Courses*, 33 John Marshall L. Rev. 303, 317, 350 (2000) (advocating accommodation of diverse learning styles of law students by employing a practicum that provides varied types of exercises); Special Edition, *Current Methods for Law Teaching*, 35 Gonz. L. Rev. 1, 1–106 (2000) (providing an annotated bibliography and monographs of current law teaching methods); Jayne Elizabeth Zanglein & Katherine Austin Stalcup, *Te(a)chnology: Web-based Instruction in Legal Skills Courses*, 49 J. Leg. Educ. 480, 481, 503 (1999) (disputing the “one-size-fits-all teaching approach” in law school teaching and advocating use of technology in the classroom to reach the diverse learning styles of law students).

of these authors encourage law professors to be aware of individual differences among students.<sup>2</sup> Yet there has been little empirical research conducted in law schools concerning the effectiveness of teaching students according to their individual learning styles.<sup>3</sup>

“Learning styles” refers to the ways in which individuals “begin[] to concentrate on, process, [internalize,] and [remember] new and difficult [academic] information” or skills.<sup>4</sup> The absence of learning-styles research in law schools spurred us to conduct an empirical study to determine whether the application of learning-styles theory actually improved student learning. As a legal writing professor and a doctoral student in education, we collaborated on an empirical study that assessed the learning-styles preferences of a first-year law student population and measured the effectiveness of a particular type of instructional tool – the Programmed Learning Sequence (PLS). The details and the results of that study are the subject of this Article.<sup>5</sup>

Using an instrument known as the Productivity Environment Preference Survey (PEPS)<sup>6</sup> to assess our law school population for the study, we found that our students showed a strong preference for “structure” and “tactical.”<sup>7</sup> Thus, our law student population indicated on the PEPS that they strongly preferred structured and tactical materials.

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<sup>2</sup> Boyle & Dunn, *supra* n. 1, at 217 n. 20 and accompanying text (citing J.P. Oglivy, *The Use of Journals in Legal Education: A Tool for Reflection*, 3 Clin. L. Rev. 55, 69, 71 (1996) (advocating that, because “students learn in different ways,” they should maintain a journal to “engage in and become more efficient at self-evaluation”)); Busharis & Rowe, *supra* n. 1, at 317 (“To reach all students, and to help students develop varied learning styles, law professors should expose students to a variety of learning environments, including writing, role-playing, and hands-on activities.”).

<sup>3</sup> Interestingly, one researcher noted that empirical evidence exists suggesting that “none among the most . . . [traditional] law-teaching systems is uniquely effective.” Paul F. Teich, *Research on American Law Teaching: Is There a Case against the Case System?*, 36 J. Leg. Educ. 167, 167–68 (1986) (emphasis in original)

<sup>4</sup> Rita Dunn & Kenneth Dunn, *Teaching Secondary Students Through Their Individual Learning Styles 2* (Allyn & Bacon 1993).

<sup>5</sup> For a more technical discussion of the statistical analysis, see Lynne Dolle, *Effects of Traditional Versus Programmed Learning Sequenced Instruction on the Achievement of First-Year Law School Students in a Legal Research and Writing Course* ch. IV (unpublished Ed.D. dissertation, St. John’s Univ. 2000) (copy on file with St. John’s Univ. Lib.). Dolle’s dissertation won a distinction award from St. John’s University.

<sup>6</sup> For a detailed discussion of the PEPS, consult *infra* Part II.A.

<sup>7</sup> *Infra* app. A (Distributions of Opposite-Preferences, Non-Preferences, and Strong-Preferences for 21 Learning-Style Elements).

Researchers have defined “structure” as “the frequency with which concepts were repeated from one sentence to the next.”<sup>8</sup> Students who need structure are often times characterized as those who are academically “at-risk” or “low achievers”<sup>9</sup> or “average” with less motivation than gifted students.<sup>10</sup> But the need for structure is also evidenced when students “were not interested in what they were learning . . . .”<sup>11</sup> Researchers have found that all students “attained higher test scores in the structured settings. However, those who preferred structure scored significantly higher than those who did not prefer structure. . . .”<sup>12</sup> Thus, all students can benefit from structured instructional materials, but those who need structure will significantly benefit from instructional materials that complement their learning styles.

Students who indicate that they are tactual learners on the PEPS “process new and difficult material best through hands-on experiences.”<sup>13</sup> Researchers have found that low-achieving students are often tactual learners.<sup>14</sup> When these students are provided with instructional strategies that address their needs, their achievement increases.<sup>15</sup>

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<sup>8</sup> Alice L. Listi, *Effects of Programmed Learning Sequences Versus Traditional Instruction on the Social Studies Achievement and Attitudes Among Urban Third Graders* 24 (unpublished Ed.D. dissertation, St. John’s Univ. 1998) (copy on file with St. John’s Univ. Lib.) (surveying research findings regarding the need for structure).

<sup>9</sup> *Id.* at 25.

<sup>10</sup> *Id.* at 27.

<sup>11</sup> *Id.* at 25.

<sup>12</sup> *Id.* at 24–26 (citing R. A. Napolitano, *An Experimental Investigation of the Relationships Among Achievement, Attitude Scores, and Traditionally, Marginally, and Underprepared College Students Enrolled in an Introductory Psychology Course When They Are Matched and Mismatched With Their Learning Style Preference for the Element of Structure* (unpublished Ed.D. dissertation, St. John’s Univ. 1986) (copy on file with St. John’s Univ. Lib.). Napolitano stated,

As was illustrated through both the achievement and attitudinal analyses, structure seems to be extremely important to some students. In all circumstances, highly preferred students performed better when they were matched, rather than when they were mismatched, with their structure preference. This finding did not hold true for low preferred subjects . . . despite their preference for low structure, students scored higher on achievement when taught in a highly structured setting.

Napolitano, *supra*, at 117.

<sup>13</sup> Listi, *supra* n. 8, at 31.

<sup>14</sup> *Id.* at 30 (reporting that the low achieving students are often kinesthetic learners too).

<sup>15</sup> *Id.*

The PLS is a highly structured and tactual strategy for conveying information on any academic subject. It is designed to meet the needs of students who prefer structured and tactual teaching tools. Drs. Rita and Kenneth Dunn, who have researched and applied learning-styles strategies for more than thirty years, have used PLSs in many of their studies and have found them to be effective for students who indicate a strong preference for structured and tactual learning.<sup>16</sup> The PLS is written in the form of a manual and focuses on discrete topics.

We selected the topic of legal research for our PLS manuals. PLS is an ideal instructional tool for teaching legal research because there are concrete terms (citation form, key number searches), concepts (defining an issue), and book resources (primary sources, secondary sources) that can be summarized and tested in bite-size pieces, one followed by another. Legal research can, to some extent, be self-taught,<sup>17</sup> and the PLS provides for self-instruction and self-pacing.

Our empirical study contrasted how well law students learned legal research from traditional methods, such as classroom lecture with some visual aids, with how well they learned it with the PLS manuals.<sup>18</sup> We found that students who used PLS manuals performed significantly better than those taught through traditional methods.<sup>19</sup> These results have implications for teaching methods employed in all law schools.

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<sup>16</sup> Dunn & Dunn, *supra* n. 4, at 201–270 (providing detailed explanations and examples about how to design PLSs for students who prefer to learn in incremental steps and without supervision); Rita Dunn & Shirley Griggs, *Practical Approaches to Using Learning Styles in Higher Education: The How-to Steps*, in *Practical Approaches to Using Learning Styles Application Higher Education* 19, 26–29 (Rita Dunn & Shirley A. Griggs eds., Bergin & Garvey 2000) (describing the appropriate audience for a PLS, requisite components of a PLS, and studies that have found the PLS to be effective).

<sup>17</sup> See e.g. Ruth Ann McKinney, *Legal Research: A Practical Guide and Self-Instructional Workbook* (4th ed., West 2003) (providing a workbook designed to give law students a hands-on experience for learning legal research); see e.g. Nancy P. Johnson & Susan T. Phillips, *Legal Research Exercises to Accompany How to Find the Law and Finding the Law* (8th ed., West 2003) (providing legal research exercises for students to do independently); Christina L. Kunz et al., *The Process of Legal Research* 379–467 (5th ed., Aspen L. & Bus. 2000) (providing legal research exercises for students to do independently of teacher supervision, in addition to providing a narrative text).

<sup>18</sup> The sequencing of the traditional method and the PLS manual instruction is described *infra* Part II.C.

<sup>19</sup> We measured student performance by a series of pretests and posttests, which are discussed *infra* Parts II.C and III, and in Appendix C. The statistical significance of this study is further explained *infra* Part III.

This Article is divided into four parts. Part I describes the burgeoning interest of law professors in teaching to a diverse student population with differing learning styles. Part II explains the design of our study. Part III sets forth the study's results. Finally, Part IV recommends the kind of course material that is suitable for a PLS – one that can be metered in small bits of concrete information, such as elements of a statute or cause of action. Professors should avoid constructing a PLS when delivering abstract concepts or when eliciting varied and multiple student responses to hypothetical questions.

### PART I — LAW STUDENTS AND LEARNING STYLES

In any given student population, less than thirty percent of the adult population exposed to learning through lecture and discussion will absorb the material,<sup>20</sup> and only ten to twenty percent of that material will be retained.<sup>21</sup> Yet law school professors historically have relied upon students' ability to learn by listening, either by teaching with the Socratic method, by skillfully eliciting answers to poignantly phrased questions, or by straight lecturing.<sup>22</sup> If large segments of the student population across the country fail to learn from auditory means, then this is also true for law students. It is no wonder that there is a growing interest among law professors to seek alternative classroom teaching tools.<sup>23</sup>

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<sup>20</sup> Dunn & Dunn, *supra* n. 4, at 402 (describing the "perceptual strengths" of auditory, visual, tactual, and kinesthetic learners). The amount of retention depends upon how the original auditory reception is reinforced. If tactual learners take notes while learning the information, they will remember more of the material, *id.*; if visual learners go home and read the same material after they hear it in lecture, they will also retain more of the material. *See generally id.* at 407.

<sup>21</sup> Laurel L. Clouston & Mark H. Kleinman, *Accommodating Learning Styles: New Ways of Teaching and Learning Chemistry*, 50(3) *Canadian Chem. News* 15 (Mar. 1, 1998).

<sup>22</sup> Boyle & Dunn, *supra* n. 1, at 213–219 (explaining the history of the traditional law school teaching methods, such as the case method and the Socratic method); Steven I. Friedland, *How We Teach: A Survey of Teaching Techniques in American Law Schools*, 20 *Seattle U. L. Rev.* 1, 28 (1996) (concluding in his 1994–1995 academic-year survey of American Bar Association-accredited law schools that the Socratic method is used by "an overwhelming majority," which was ninety-seven percent of law professors who teach first-year students in his sample, and that the "lecture technique is most common in upper level courses, where ninety-four percent . . . of those responding stated that they use this method at least some of the time").

<sup>23</sup> Boyle & Dunn, *supra* n. 1, at 219–223 (providing views of various professors about innovative approaches to law school teaching); Friedland, *supra* n. 22, at 32 (reporting findings that "[m]any of the respondents indicated a desire to do away with the 'Socratic non-

Because students have diverse strengths, law school teachers must teach in equally diverse ways. The American Bar Association recognizes the diversity of the law student population, observing that “[w]omen, like men, come to law school with a variety of skills, cultural and social backgrounds, interests, learning styles, and responsibilities.”<sup>24</sup> The ABA encourages professors to use a “variety of methods” because “not all students learn best in the same manner.”<sup>25</sup> A law teacher in the field of academic support aptly describes the dissonance between the use of lecture or Socratic method and students’ ability to learn the material: “Because traditional law school pedagogy is limited to only one learning style, it does not address the varied cognitive styles represented in each class. Students whose cognitive style does not comport with the Socratic method will have to learn legal reasoning on their own.”<sup>26</sup>

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sense,’ or at the very least to de-emphasize it in their teaching. One can infer from this data that a restlessness with the Socratic method is taking root.”); see Elizabeth Mertz et al., *What Difference Does Difference Make? The Challenge for Legal Education*, 48 J. Leg. Educ. 1, 27 n. 115 (1998) (noting that “some commentators [contend] that the dominant images and methods of law school teaching, including the Socratic method, are themselves inherently gendered (masculine) in character”). Mertz and her co-authors reported on “quantitative analysis of classroom dynamics in terms of diversity across race, gender, and school status” in eight law schools. *Id.* at 3. The researchers also compared their “study’s results with those of previous studies, providing the first systematic comparative analysis of existing research on classroom dynamics in law schools . . . .” *Id.* Their findings indicated a “complexity of patterning” in the context of race and gender of students and teachers in elite and non-elite schools. *Id.* at 74. These findings were complex, but they do suggest that not all students participate to the same extent when the Socratic method is used.

<sup>24</sup> ABA Comm. on Women in Educ., *Elusive Equality: The Experiences of Women in Legal Education: Executive Summary and Recommendations* 9 (ABA 1996). The ABA further recommended:

Individual teachers can experiment to determine what combination of methods works best to communicate effectively with all members of the class. For example, depending on the course and its size, effective techniques might include group projects or simulations, formal student presentations, small group discussions followed by reports on particular topics, reaction papers, journals, tours of legal institutions outside the law school, computer exercises for individual students or groups of students, and panels of experts.

*Id.* at 12.

<sup>25</sup> *Id.*

<sup>26</sup> Paula Lustbader, *Construction Sites, Building Types, and Bridging Gaps: A Cognitive Theory of the Learning Profession of Law Students*, 33 Willamette L. Rev. 315, 324 n. 17 (1997) [hereinafter *Construction Sites*]; see Paula Lustbader, *From Dreams to Reality: The Emerging Role of Law School Academic Support Programs*, 31 U.S.F. L. Rev. 839, 859 n. 62 (1997) [hereinafter *Lustbader, From Dreams to Reality*] (“The Socratic method of teaching is an inadequate method for teaching and modeling.”).

Among those who advocate change in the law school classroom are proponents of recognizing individual differences.<sup>27</sup> Drs. Rita

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<sup>27</sup> See e.g. Boyle & Dunn, *supra* n. 1, at 217 n. 20 (providing an overview of law professors' interest in individual learning); Friedland, *supra* n. 22, at 32 (explaining that his survey of teaching techniques used in law schools revealed "a willingness of professors to experiment and explore" in answer to questions regarding whether they use "new or different teaching techniques").

Some law teachers propose that there are different kinds of learners. See e.g. David W. Champagne, *Improving Your Teaching: How Do Students Learn?*, 83 L. Lib. J. 85, 89 (1991) (identifying eight categories of learners and providing advice for professors on how to plan and adapt their teaching styles to enhance the learning environment); Friedland, *supra* n. 22, at 4 (observing that "more and more educators are characterizing students as 'three-dimensional' learners who have disparate propensities for learning").

Some law teachers categorize personalities of students based upon "dimensions," according to Myers-Briggs Type Indicator theory. See e.g. Boyle & Dunn, *supra* n. 1, at 221–222 & n. 48 (explaining Myers-Briggs Type Indicator theory); Don Peters & Martha M. Peters, *Maybe That's Why I Do That: Psychological Type Theory, the Myers-Briggs Type Indicator, and Learning Legal Interviewing*, 35 N.Y.L. Sch. L. Rev. 169, 195–196 (1990) (encouraging the use of MBTI theory for legal interviewing skills in clinical settings); Vernellia R. Randall, *The Myers-Briggs Type Indicator, First Year Law Students and Performance*, 26 Cumb. L. Rev. 63, 102–103 (1995) (concluding that there is a correlation between personality types and law school performance and suggesting that law faculty know and teach about learning styles); *contra* M.H. Sam Jacobson, *Using the Myers-Briggs Type Indicator to Assess Learning Style: Type or Stereotype?*, 33 Willamette L. Rev. 261, 269–304 (1997) (critiquing the MBTI theory); *but cf.* Dorothy Griggs et al., *Accommodating Nursing Students' Diverse Learning Styles*, 19 Nurse Educator 41, 43 (Nov. 1994) (critiquing theories, such as the Myers-Briggs Type Indicator, that focus on a few variables, because "[l]earning style is a multidimensional concept in which many variables impact on each other and produce highly unique patterns among individuals").

Despite the slight nuances in theory, there is a growing acceptance that students are not all the same. John Bishop, *The Changing Educational Quality of the Workforce: Occupation-Specific Versus General Education and Training*, 559 Annals Am. Acad. Pol. & Soc. Sci. 24, 36 (1998) ("Since individuals cannot achieve excellence without specialization, an education system that does not accommodate and indeed encourage specialization becomes a barrier to real excellence. People have diverse interests, diverse talents, and diverse learning styles. Employers are similarly diverse in the skills and talents they seek. A one-size-fits-all upper-secondary education is bound to fail the majority of students."); Mary Jo Eyster, *Designing and Teaching the Large Externship Clinic*, 5 Clin. L. Rev. 347, 368 n. 24 (1999) (indicating that "teaching methodologies must be varied in order to match the varieties in learning styles"); Alan M. Lerner, *Law & Lawyering in the Work Place: Building Better Lawyers by Teaching Students to Exercise Critical Judgment as Creative Problem Solver*, 32 Akron L. Rev. 107, 116 (1999) (stating that "we, as teachers, need to be conscious of offering not only a mode of learning that suits our styles (and thus the learning styles of some – but not all – of our students), but a variety of teaching/learning styles in order to be offering the same 'real' opportunity to learn to all of our students"); Lustbader, *Construction Sites*, *supra* n. 26, at 324 n. 17 (encouraging law teachers to "adapt their styles, methods, and program designs to accommodate the students' diverse patterns of thought").

Differences in a law school classroom experience have been detected along lines of race, gender, and sexual preference. See e.g. Janice L. Austin et al., *Results from a Survey: Gay, Lesbian, and Bisexual Students' Attitudes About Law School*, 48 J. Leg. Educ. 157, 163–164 (1998) (concluding in a 1997 survey of 194 law schools that "classroom coverage of [Gay-Lesbian-Bisexual] issues may have improved, but many GLB students still have cause for concern. And the overall law school climate remains on the chilly side for many GLB students."); Lani Guinier, Michelle Fine & Jane Balin, *Becoming Gentlemen: Women's Ex-*



and Kenneth Dunn have developed an assessment tool, called the Productivity Environmental Preference Survey (PEPS),<sup>28</sup> that reveals students' learning preferences for twenty-one elements, known as the "Dunn and Dunn Learning-Style Model." These twenty-one elements are divided among five categories: (1) environmental factors such as "sound, light, temperature, and furniture/seating designs";<sup>29</sup> (2) emotional factors such as "motivation, persistence, responsibility (conformity versus nonconformity), and need for either externally imposed structure or the opportunity to do things in their own way";<sup>30</sup> (3) sociological factors such as (a) "learning best alone, in a pair, in a small group, as part of a team, or with either an authoritative or a collegial adult"<sup>31</sup> and (b) "wanting variety as opposed to patterns and routines";<sup>32</sup> (4) physiological factors such as "perceptual strengths, time-of-day energy levels, and need for intake and/or mobility *while* learning";<sup>33</sup> and (5) psychological factors such as (a) global versus analytic processing determined through correlations among sound, light, design, persistence, sociological preference and intake; (b) right/left brain hemisphericity; and (c) impulsive versus reflective.<sup>34</sup>

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*periences at One Ivy League Law School*, 143 U. Pa. L. Rev. 1, 2, 27 (1994) (concluding "that the law school experience of women in the aggregate differs markedly from that of their male peers" and that "race continues to play a strong independent role in predicting law school performance"); Erin A. McGrath, Student Author, *The Young Women's Leadership School: A Viable Alternative to Traditional Coeducational Public Schools*, 4 Cardozo Women's L.J. 455, 463 (1998) ("A sizable and persuasive body of evidence suggests that same-sex education at an early age is an innovative method of effectively educating and socializing young children. It allows teachers and administrators the freedom to structure an educational program around the unique learning characteristics of boy and girls, who are acutely receptive to learning different things at different times.").

<sup>28</sup> The PEPS was developed by Rita Dunn, Kenneth Dunn, and Gary Price. If interested in obtaining the PEPS, contact: Price Systems, Inc., P.O. Box 1818, Lawrence, KS 66044-8818. The telephone number is 1-800-LSI-4441. Dr. Lynne Dolle and Professor Robin Boyle are willing to serve as a resource in assisting law professors in altering their teaching methods to reach the learning-style majorities of their classes.

<sup>29</sup> Dunn & Dunn, *supra* n. 4, at 3, 5 (listing the various elements that affect learning).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* The multidimensional Dunn and Dunn Learning-Style Model is based on the following theoretical assumptions:

1. Learning style is a biological and developmental set of personality characteristics that makes identical instructional environments, methods, and resources effective for some learners and ineffective for others.
2. Most people have learning-style preferences, but individuals' learning-style preferences differ significantly.

Our own studies indicate that there is validity to recognizing individual differences. The learning styles of incoming law students at St. John's University School of Law were assessed annually since 1996.<sup>35</sup> In each of these academic years, our PEPS results show that law students were diverse in their learning styles.

Innovative educators are also incorporating self-instruction into their repertoire. Law school professors increasingly recognize the need to help students understand "their own learning processes."<sup>36</sup> In turn, their students increasingly seek to gain an understanding of their individual learning processes through their metacognitive skills.<sup>37</sup> Through self-instruction, students gradually

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3. Individual instructional preferences exist and the impact of accommodating these preferences can be measured reliably.
  4. The stronger the preference, the more important it is to provide compatible instructional strategies.
  5. Accommodating individual learning-style preferences through complementary instructional and counseling interventions results in increased academic achievement and improved student attitudes toward learning.
  6. Given responsive (matched learning-style) environments, resources and approaches, students attain statistically higher achievement and attitude test scores than students with dissonant (mismatched) treatments.
  7. Most teachers can learn to use learning styles as a cornerstone of their instruction.
  8. Most students can learn to capitalize on their learning-style strengths when concentrating on new or difficult academic material.
  9. The less academically successful the individual, the more important it is to accommodate learning-style preferences.

Rita Dunn et al., *A Meta-analytic Validation of the Dunn and Dunn Model of Learning-Styles Preferences*, 88 J. Educ. Res. 353, 354 (1995).

<sup>35</sup> Robin A. Boyle, Karen Russo, & Rose Frances Lefkowitz, *Presenting a New Instructional Tool for Teaching Law-Related Courses: A Contract Activity Package for Motivated and Independent Learners*, 30 Gonz. L. Rev. 1, app. A (2003) (providing learning style assessment results in academic years 2000-01 and 2001-02); Robin A. Boyle, *Bringing Learning-Style Instructional Strategies to Law School: You Be the Judge*, in *Practical Approaches to Using Learning Styles Application Higher Education* 158-160 & tbls. 17.3, 17.4 (Rita Dunn & Shirley A. Griggs eds., Bergin & Garvey 2000) (providing learning-style assessment results for first-year law student sample in academic year 1997-98); Boyle & Dunn, *supra* n. 1, at apps. 2 & 3 (providing learning-style assessment results for first-year law student sample in academic year 1996-97); *see infra* Part II.A. & app. A (providing learning-style assessment results for first-year law student sample in academic year 1998-99).

<sup>36</sup> Lustbader, *From Dreams to Reality*, *supra* n. 26, at 852. Lustbader further stated, To facilitate students' awareness of how they learn, [academic support] teachers focus on the process of learning, provide examples of different ways students can master a specific skill, help students develop ways to evaluate their learning, and encourage students to modify their study techniques accordingly.  
*Id.* at 853.

<sup>37</sup> *See e.g. id.* at 852-53 & n. 44; Cathaleen A. Roach, *A River Runs Through It: Tapping into the Informational Stream to Move Students from Isolation to Autonomy*, 36 Ariz. L. Rev. 667, 685 (1994) (encouraging law teachers to move law students into the direction of self-learning); Paul T. Wangerin, *Learning Strategies for Law Students*, 52 Alb. L. Rev. 471,

become “active” rather than “passive learners”<sup>38</sup> and by doing so, students can “manipulate and process information in [their] own way in order to fully understand it.”<sup>39</sup> Self-instruction has been a cornerstone of teaching legal research as evidenced by the frequency of do-it-on-your-own research exercises contained within legal textbooks.<sup>40</sup> Self-instruction is also one of the many benefits of using the PLS instructional tool, as described further in Part II below.

Although there is a growing interest among law professors in recognizing both the diversity of our student population and the value of self-instruction, nonetheless there is a paucity of empirical research. One commentator noted, “Unfortunately, there is a distinct lack of empirical research that evaluates the effectiveness of the alternative group pedagogical methods used in legal education.”<sup>41</sup> Another explained the absence of studies by observing, “most legal educators have neither the time nor the inclination to engage in complex empirical research. . . .”<sup>42</sup>

Our study was empirical. It tested theory with practice. We hope that it inspires others to develop and evaluate alternative law teaching methods and materials.

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472, 474–479 (1988) (advocating metacognition for law students so that they become aware of the learning process).

<sup>38</sup> Lustbader, *From Dreams to Reality*, *supra* n. 26, at 852, 854–855; see Lerner, *supra* n. 27, at 116 (“Most students learn better when they are engaged in ‘active learning.’”).

<sup>39</sup> Lustbader, *From Dreams to Reality*, *supra* n. 26, at 855.

<sup>40</sup> *Supra* n. 17. Ruth Ann McKinney explains the value of self-instruction:

Doing legal research is the kind of skill that you can learn best when you roll up your sleeves and try it. While it helps to read about it or hear experts talk about it, there’s no substitute for trying it yourself. Most of us know through experience that “learning by doing” is the way to go when developing a skill.

McKinney, *supra* n. 17, at 1.

<sup>41</sup> James Eagar, *Pedagogical Methods in Legal Education*, 32 *Gonz. L. Rev.* 389, 414 (1996/97) (referring to the use of audio-visual aids and computers as supplements to the textbook and lecture/discussion model).

<sup>42</sup> Paul T. Wangerin, *Action Research in Legal Education*, 33 *Willamette L. Rev.* 383, 385 (1997) (acknowledging merely a few studies by notable researchers). Wangerin went on to say,

Furthermore, even if legal educators wished to gather evidence regarding the effectiveness of certain teaching techniques or educational programs, they would be dissuaded by the lack of a workable model for gathering such evidence. Standard statistical evidence is simply too difficult.

*Id.* Our study, however, included “standard statistical evidence.”

## PART II — THE PLS STUDY CONDUCTED AT ST. JOHN'S UNIVERSITY SCHOOL OF LAW

The population for the study we conducted at St. John's University School of Law consisted of 113 first-year law students<sup>43</sup> who were enrolled in Legal Research and Writing,<sup>44</sup> a required course. The investigation was conducted in four legal writing sections; two professors each taught two sections. All students participated voluntarily.<sup>45</sup>

### A. Measuring Learning Styles

We used the PEPS to assess the learning-style preference of the students. The PEPS identifies how adults prefer to “function, learn, concentrate, and perform in their occupational or educational activities . . . .”<sup>46</sup> PEPS concentrates on the five specific classifications explained in Part I above: environmental, emotional, sociological, physiological, and psychological.<sup>47</sup> PEPS is administered in the form of 100 written questions that elicit answers relating to twenty-one discrete learning-style elements. These elements then translate into the five specific classifications.<sup>48</sup> The PEPS has been used in research at more than 120 institutions of higher education<sup>49</sup> and has evidenced predictive reliability<sup>50</sup> and validity.<sup>51</sup>

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<sup>43</sup> Out of 113 students in the study, fifty-six were males and fifty-seven were females. At the conclusion of the study, there were 108 students; three males and two females left the course due to attrition. The average age among the full-time students in the entering class was twenty-three, with years ranging from twenty to forty-five. Twenty-six percent of the entering students were from African-American, Asian, Hispanic, or Native-American backgrounds.

<sup>44</sup> All students participating in this study completed the prerequisite course, Legal Methods.

<sup>45</sup> At the beginning of the fall semester, students were provided with a written description of the research project. Students were informed that all participation would be voluntary and that refusal to participate would not jeopardize their grades in the course.

<sup>46</sup> Gary E. Price, *Productivity Environmental Preference Survey* (PEPS Manual) 5 (Price Systems, Inc. 1996).

<sup>47</sup> *Id.*

<sup>48</sup> The PEPS uses a five-point Likert Scale and can be completed in approximately twenty to thirty minutes. For those who cannot read or write, it can be administered on tape or orally.

<sup>49</sup> See *Research with the Dunn and Dunn Model* (Ctr. for the Study of Learning & Teaching Styles, St. John's Univ. Sch. of Educ. & Human Servs. 2001); [www.learningstyles.net](http://www.learningstyles.net).

We administered the PEPS to our sample and obtained a survey of the learning-style preferences for the group as well as for each individual.<sup>52</sup>

### B. Programmed Learning Sequences I and II

The PLS<sup>53</sup> is designed to respond to selected learning styles. Researchers have found it to be an effective instructional tool.<sup>54</sup>

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<sup>50</sup> Lynn Curry, *Integrating Concepts of Cognitive or Learning Style: A Review with Attention to Psychometric Standards* 2, 23–24 (Ctr. for the Study of Learning and Teaching Styles, St. John's Univ. 1987) (finding that the PEPS provided “good reliability evidence”); see generally Steve Baldrige, *Creating Legally Valid School Administrator Evaluation Policy in Utah*, 1998 BYU Educ. & L.J. 19, 25 (defining “reliability” as “when measurement can take place repeatedly resulting in the same outcome” (citation omitted)).

<sup>51</sup> Curry, *supra* n. 50, at 23–24 (finding that the PEPS provided “good validity evidence”); Dunn & Dunn, *supra* n. 4, at 2 (noting that each of the major models of learning styles has specialized and “related” instruments for assessing an individual’s unique learning style). In 1991, researchers reported the reliability and validity of the PEPS in their study of nursing populations. Julie LaMothe et al., *Reliability and Validity of the Productivity Environmental Preference Survey (PEPS)*, 16 Nurse Educator 30, 34 (July–Aug. 1991). Other studies have also found predictive validity of the PEPS. Rita Dunn et al., *Effects of Matching and Mismatching Minority Developmental College Students’ Hemispheric Preferences on Mathematics Scores*, 83 J. Educ. Res. 283, 285 (1990) (referring to various studies affirming the reliability of the PEPS); Rita Dunn, Joanne Ingham & Lawrence Deckinger, *Effects of Matching and Mismatching Corporate Employees’ Perceptual Preferences and Instructional Strategies on Training Achievement and Attitudes*, 11(3) J. Applied Bus. Research 30, 30, 32 (Summer 1995) (pointing to studies that have established PEPS validity); Joanne M. Ingham, *Matching Instruction with Employee Perceptual Preference Significantly Increases Training Effectiveness*, 2(1) Hum. Resource Dev. Q. 53, 56 (Spring 1991) (indicating that “the PEPS has demonstrated predictive validity”); see generally Baldrige, *supra* n. 50, at 25 (defining “validity” as “the instrument’s ability to accurately assess those skills or behaviors for which it was constructed” (citation omitted)).

<sup>52</sup> *Infra* app. A. Individual and group surveys were developed.

<sup>53</sup> The PLSs used in this study were based upon the Dunn and Dunn Learning-Style Model alternative strategies.

<sup>54</sup> Previous researchers report significant higher achievement-test scores on course content taught through the PLS learning-styles strategy as opposed to course content taught through traditional instruction. Dunn & Griggs, *supra* n. 16, at 28–29 (describing studies finding PLSs to be effective); Listi, *supra* n. 8, at 3, 54 (reporting on her study of the relative impact of PLS instruction to traditional teaching methods with third-grade students in a social studies lesson and finding that the PLS was effective as an instructional resource); Joyce A. Miller & Rose F. Lefkowitz, *Incorporating Learning Styles into Curricula of Two Programs in a College of Health-Related Professions*, in *Practical Approaches to Using Learning Styles Application Higher Education* 145, 147–151 (Rita Dunn & Shirley A. Griggs eds., Bergin & Garvey 2000) (describing the effectiveness of the PLSs developed for college students in health-related courses); Joyce A. Miller, *Enhancement of Achievement and Attitudes Through Individualized Learning-Style Presentations of Two Allied Health Courses*, 27 J. Allied Health 150, 154 (Fall 1998) (concluding in her investigation that the PLS she developed and used in college health classes proved to be “more efficacious [as an] instructional resource than the traditional method and was able to accommodate many

The PLS is ideally suited for students who prefer learning (a) with structure, (b) tactually, (c) in small steps with immediate reinforcement, (d) alone or with peers, (e) visually (by use of print, illustrations, tables, graphs), and (f) globally (with a story or case study introduction).<sup>55</sup> It often is written in the form of a manual and focuses on discrete topics.

We wrote and presented to the sample population two manuals called Programmed Learning Sequence I and II (PLS I and II).<sup>56</sup> Generally, PLS I focused on primary authority and PLS II focused on secondary authority. Specifically, PLS I focused on the federal court system, branches of our federal government, federal case reporters, federal case citations, New York state courts, New York reporter system, New York case citations, framing an issue from a fact pattern, and researching a New York statute. PLS II focused on case digests, key number system, case annotations in digests, pocket parts, publishers' notes in case reporters (including headnotes), Index to Legal Periodicals, periodical citations, encyclopedias, American Law Reports, Restatements of the Law, and treatises.

The PLS must include defined objectives set forth in the introductory pages that follow the global introduction, user-friendly directions, and a vocabulary list. Students were introduced to our PLS through a global beginning – with a letter inviting them to do research in the law library.<sup>57</sup> Objectives were provided in the introductory pages of our manuals.<sup>58</sup> Vocabulary words were also provided in the introductory pages.<sup>59</sup>

The PLS provides structure through a repetitive format of introducing new concepts in the form of individual frames and then

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learning styles”); see e.g. Laura Shea Doolan, *Teaching Graduate Students with a Learning-Styles Approach: Adding Zest to the Course Ingredients*, in *Practical Approaches to Using Learning Styles Application Higher Education* 135, 136–141 (Rita Dunn & Shirley A. Griggs eds., Bergin & Garvey 2000) (describing how the PLS was one of the many successful instructional tools used to teach education courses).

<sup>55</sup> Dunn & Dunn, *supra* n. 4, at 201–270 (describing the ideal student for this instructional tool and how to construct a PLS). PLS is also suited for a student who prefers to learn auditorially if the material is presented on a tape cassette.

<sup>56</sup> Each manual bore on its cover the title, *Legal Research: A Method to Its Madness*.

<sup>57</sup> See *infra* Appendix B for an example. According to the Dunn and Dunn Learning-Style Model, broad introductions are helpful for global learners. Dunn & Dunn, *supra* n. 4, at 47–48 (explaining global versus analytic learners).

<sup>58</sup> See *infra* Appendix B.

<sup>59</sup> See *infra* Appendix B.

posing related questions. The correct answers, by which the students can check their own answers, are provided on the back of each frame. Structure is further emphasized by the educational objectives itemized on specific frames. Frames contain questions and answers directly related to the topic to help students retain the information.<sup>60</sup>

In our PLS manuals, a singular concept was woven through the frames. In PLS I, the first frame opens with a global beginning, which enables students to consider history and to recognize how citizens from ancient times obeyed rules and regulations as decreed by kings. It further illustrates the contrast between the past and the present, specifically referring to the United States, where rules and regulations emanate from the law. This concept of American jurisprudence is woven throughout PLS I. In PLS II, the first frame begins with a humorous legal issue concerning a book publisher called Sleeze Press,<sup>61</sup> which intends to publish fictionalized accounts of actual persons and events.<sup>62</sup> Throughout the manual, students are introduced to pertinent materials that will assist them in mastering this topic. Toward the end of the same manual, in Frame 24, students were asked to answer the issue posed regarding Sleeze Press.<sup>63</sup>

The PLS format is effective for “tactual learners” because these students prefer to work with their hands, and students using a PLS write their answers repeatedly. Tactual learners are engaged by manipulative hands-on games that serve as periodic review tests usually after seven or eight frames. These review tests

<sup>60</sup> For example, in our PLS I, Frame 5 reads as follows:

Decisions from our courts can be found in what we call **case reporters**. Some courts have their decisions printed in more than one reporter. In that case, one reporter is designated as the official reporter, which is published with authorization by the government. The other reporter(s) are referred to as unofficial and are published by private industry.

Write one answer on each line below.

- 1) Court decisions can be found in \_\_\_\_\_.
- 2) A distinction between official and unofficial reporters is that \_\_\_\_\_.

The back of Frame 5 read:

#### ANSWERS

- 1) Court decisions can be found in **case reporters**.
- 2) Official reporters are **printed by an agent of the government** and unofficial reporters are **printed by private industry**.

<sup>61</sup> The origin of the Sleeze Press fact pattern is unknown.

<sup>62</sup> See *infra* Appendix B for an example.

<sup>63</sup> On file with the authors.

further reinforce the material and show the students how much they actually are remembering. Tactual manipulatives are effective for tactual learners who often cannot remember three-quarters of what they hear or read; they can, however, remember seventy-five of the material that is contained in an instructional hand game that they use.<sup>64</sup>

Our PLS I and II contained three review tests per manual, each in the form of a tactual manipulative. Each review test followed approximately eight frames. One tactual review test was in the form of a puzzle; students were asked to reconstruct the puzzle pieces that substantively and physically fit together.<sup>65</sup> A second tactual review test was in the form of a Poke-A-Hole, which consists of a card with a statement and three possible corresponding statements marked by holes at the bottom of each. The student was asked to poke a pen through the correct hole, which was verified with a star emblazoned around the hole with the best response on the back of the card.<sup>66</sup> A third tactual review test was a matching column, in which students were asked to find the correct answer in one set of columns from the question posed in the opposite column.<sup>67</sup>

For students who prefer to learn new material in incremental steps with periodic reinforcement, the PLS is an effective mode of instruction. Each frame provides a bite-size piece of new information. The questions and answers on each frame assist the students in learning each new concept. The tactual review tests reinforce all concepts.

For students who prefer to learn visually, the PLS provides not only the written word, but also includes diagrams, pictures, charts and/or graphs. Our PLS I and II provided visual depictions of the subject matter on every frame.<sup>68</sup>

Additionally, the PLS is an effective mode of self-instruction. Its self-explanatory answers throughout the manual permit students to learn the academic material independently. The tactual tests and games contained within the manual also provide an-

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<sup>64</sup> Dunn & Griggs, *supra* n. 16, at 28.

<sup>65</sup> See *infra* Appendix B for an example.

<sup>66</sup> See *infra* Appendix B for an example.

<sup>67</sup> See *infra* Appendix B for an example.

<sup>68</sup> For example, PLS I in Frame 6 substantively covered the federal reporter system and visually depicted court houses with diagrams of corresponding case reporters. Maps of court systems were included on pertinent frames. See *infra* Appendix B for an example.



swers with which students can recognize their gradually increasing knowledge. The PLS is self-paced and is best used when students are permitted reasonable time intervals in which to proceed at their own speed. In our study, we allowed students approximately ninety minutes to complete one manual in class. Alternatively, the manuals can be completed at home or in the library.

The PLS can incorporate encouragement and humor, which some students prefer while learning challenging material. Our PLS I and II included periodic encouraging statements such as “[k]eep on focusing. It’s complicated, but you’ll get it!” The frames also contained humorous caricatures. While the study was in progress, we overheard students chuckling and enjoying themselves.

### *C. Measuring PLS’s Effectiveness*

To assess the effectiveness of the Programmed Learning Sequences (PLSs), two different groups were compared with two different subject areas.<sup>69</sup> Half the students used PLS I while the other half used the traditional method to learn the same subject matter. The traditional method included lecture and the use of some visual aids, such as copies of legal print sources projected by an overhead onto a screen or photostatic copies distributed to each student. The subject matter for Week One of the study consisted of the topics contained in PLS I.<sup>70</sup> During Week Two of the study, the students who used PLS I in Week One then used the traditional method, while the other students used PLS II. The subject matter for Week Two of the study consisted of the topics contained in PLS II. Thus, during the two weeks of the study, each student was presented with traditional methods consisting primarily of lectures and some visual aids, and with a PLS.

The sequence of our classroom teaching methods for the study is shown in the following chart:

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<sup>69</sup> Statistically, there were two large groups. Practically speaking, however, each professor taught two groups, thus encompassing four groups. Each week of the two-week study was treated as a separate experiment.

<sup>70</sup> Professor Elizabeth Cohen administered PLS I to one group of her students and taught by traditional methods (part lecture and part visual aids) to her second group. Professor Robin Boyle also administered PLS I to one group of her students and taught by traditional methods (part lecture and part visual aids) to the second group. This structure was repeated in Week Two. However, PLS II was given to the students who did not receive PLS I in Week One.

CLASS	WEEK ONE	WEEK TWO
CLASS 1	Traditional '1'	PLS II
CLASS 2	PLS I	Traditional '2'
CLASS 3	Traditional '1'	PLS II
CLASS 4	PLS I	Traditional '2'

**Figure 1. Random assignment of ordering within a two-week period**

We used pretests and posttests to measure how well the students knew the material, before and after each lesson.<sup>71</sup> Our study was performed during a two-week time span, each week focusing on different legal research topics. In Week One, all students in the study were administered the same pretest and posttest on the assigned subject matter for that week, and that process was repeated for Week Two.<sup>72</sup>

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<sup>71</sup> The pretests and posttests contained fifteen to twenty multiple-choice questions. Scores were based on a scale of 100%. Only one answer was possible for each item. Each set of pretests and posttests was identical; however, the set for the week covering PLS I subject matter was different from the set covering PLS II subject matter. The items in the tests were similar to those used in the previous years' course content and were chosen on the basis of their face validity. A jury of experts, consisting of learning-style researchers, examined the PLS manuals to assure that they met the requirements for proper methodology. Additionally, a jury of content experts, consisting of legal writing professors and law professors from other disciplines, examined the PLS manuals to assure comparability of both PLS manuals in terms of content quality and level of difficulty. Prior to each topic, a pretest was administered to determine comparability of the four Legal Research and Writing classes. Following each topic, a posttest was administered to assess student progress in legal research achievement.

<sup>72</sup> Some of the questions and multiple choice answers posed on the pretests and posttests were:

In order for you to begin your legal research it is important for you to:

- a) frame the legal issue in terms of the facts presented and topics of law;
- b) use the identical strategy each time;
- c) both (a) and (b).

Another multiple-choice question was:

Legal encyclopedias are generally:

- a) listing of periodicals organized alphabetically by topic and by author;
- b) written by legal research librarians;
- c) resources that summarize the law on a wide variety of topics and are organized alphabetically by topic.

### PART III — STUDY FINDINGS

The results of the pretests and posttests, as well as the PEPS, were examined by a team of statistics experts. The research question posed was whether the students had achieved higher scores on the posttests, in relation to their pretests, by using the PLS manuals than when taught the same course content through traditional instruction (lecture and some visual aids).<sup>73</sup> The results of our study show that students learned statistically more material by using the PLS manuals than through traditional instruction.<sup>74</sup>

The PLS was an effective instructional tool for a number of reasons. First, PEPS results indicated that our law student population strongly preferred structured and tactual materials, and the PLS has proven to be an effective instructional strategy for students who prefer to learn with structure and tactual tools. According to the PEPS results for our study population, fifty-four percent of the students indicated that they strongly preferred structure.<sup>75</sup> This figure was significantly higher than the figure for all other twenty learning-styles elements. In addition, twenty-four percent of the students indicated that they strongly preferred tactual materials, which was the seventh highest preference revealed for the learning-style elements.

Second, the PLS is entirely student-controlled, whereas the traditional approach is instructor-controlled; thus, students may feel empowered using the PLS method. Students can pace themselves; those who process information more slowly are able to work at a relatively slower speed. Furthermore, when working with the tactual review tests, students can return to prior pages to reinforce earlier concepts.

It is difficult to ascertain the effectiveness of visuals in this study. Only 8% of this study population preferred visual materi-

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<sup>73</sup> Data were analyzed using the t-test to determine whether there was a significant difference between the mean achievement scores of the classes being taught through traditional instruction and the mean achievement scores of the classes being taught through PLS instruction. The t-test ascertained whether the observed difference on the mean standardized gain scores from pretest to posttest was significantly larger than a difference that would be expected by chance.

<sup>74</sup> Examination of the achievement data indicated significantly higher achievement for Week One ( $p < .001$ ) and Week Two ( $p < .035$ ) under PLS conditions than on course content taught through traditional instruction. See *infra* Appendix C for a complete table of study results.

<sup>75</sup> *Infra* app. A.

als,<sup>76</sup> indicating that the visual aids in either the PLS manuals or the lecture benefited a small segment of our population. Visuals were included in both the PLS as well as the traditional methods presentations. During their lectures for the traditional instruction, the professors used overhead projectors and distributed photostatic copies of legal print sources. These print sources contained written text. Thus, this study did not compare straight lecture to PLS instruction, but it did compare two teaching methods -- traditional versus programmed learning instruction.

#### PART IV — RECOMMENDATIONS

The success of the PLS as an instructional tool demonstrates that not all students learn best through lecture, nor by lecture with additional use of visual aids. The PLS is effective for students whose learning-style profiles indicate a preference for structure and tactile stimulation. Based upon the student populations that we have sampled, a substantial percentage of students strongly prefer to learn through these two learning style elements.

Law professors should not overlook the need to provide structure for our students. In our study conducted in academic year 1998-99, students strongly preferred structure more than any of other learning-style preferences.<sup>77</sup> This finding does not appear to be an aberration. Professor Robin Boyle and Dr. Rita Dunn found similar results at the same law school in other years. In the academic year 2001-02, the PEPS revealed that 65.9% of our sampled first-year law students strongly preferred structure.<sup>78</sup> In academic year 2000-01, the PEPS revealed that 65.85% of our sampled first-year law students strongly preferred structure.<sup>79</sup> In academic year 1997-98, the PEPS revealed that 47.62% of our sampled first-year law students strongly preferred structure, which then was the second most strongly preferred element of the twenty-on elements.<sup>80</sup> In academic year 1996-97, our PEPS revealed that 67.11% of our

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<sup>76</sup> *Id.*

<sup>77</sup> *Infra* Part II.A & app. A (providing learning-style assessment results for first-year law student sample in 1998 and showing that fifty-four percent strongly preferred structure).

<sup>78</sup> Boyle, *et al.*, *supra* n. 35, at app. A tbl. 1.

<sup>79</sup> *Id.* at app. A tbl. 2.

<sup>80</sup> Boyle, *supra* n. 35, at 155, 160 tbl. 17.4 (providing learning-style assessment results for first-year law student sample in 1997 and showing that 47.62% strongly preferred structure, which was the second most popular element most strongly preferred).

sampled first-year law students strongly preferred structure, which was the element most strongly preferred that year. The second favorite was a preference for learning in the afternoon, with 56.58% preferring that time of day.<sup>81</sup> Thus, in five successive years, each of our sampled law school populations strongly preferred structure.

Law school reform should include self-instruction. For example, those who teach legal research find that students need to engage in research exercises independently as an integral part of the learning process. The PLS manuals used for our study helped these students learn on their own without expert assistance. Many of the legal research and writing texts on the current market include research exercises for students to perform on their own in the library.<sup>82</sup> We are not advocating that law teachers abandon the concept of classroom learning. Instead, self-instruction and learning-by-doing should be incorporated as part of a full educational experience.

A PLS is best suited for a legal subject area that can be organized into sequential detail. In designing a PLS, a law professor would be wise to use content that can be “learned in small, simple steps without the direct instruction of a presenter”<sup>83</sup> and should provide objectives that each participant can master.<sup>84</sup> Many legal courses, if examined carefully, can be taught piece-by-piece by identifying the “topic, concept, or skill”<sup>85</sup> that students need to learn. For example, a PLS on intentional torts could define certain torts, such as false imprisonment, in individual frames, along with questions testing and reinforcing the students’ understanding. Elements of causes of action would be suitable for a PLS. Certain lessons in a statute-based course, such as Trusts and Estates, could also be the basis of a PLS with individual frames parsing information about key statutory sections. A civil procedure course could lend itself to a PLS if a professor were to isolate manageable

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<sup>81</sup> Boyle & Dunn, *supra* n. 1, at app. 2 (providing learning-style assessment results for first-year law student sample in academic year 1996-97 and showing that 67.11% strongly preferred structure, which was by far the most popular element).

<sup>82</sup> *Supra* n. 17.

<sup>83</sup> Rita Dunn & Kenneth Dunn, *The Complete Guide to the Learning Styles Inservice System* 120 (Allyn & Bacon 1999). This is a very useful book on how to construct a PLS and other learning styles materials.

<sup>84</sup> *Id.*

<sup>85</sup> *Supra* n. 17.

topics, such as the basis of long arm jurisdiction. For ease of first-week tension, a law professor teaching an advanced course with essential prerequisite material could develop a PLS for incoming students as a refresher.<sup>86</sup> College level courses on legal topics, such as a Health Law class covering patients' rights, would be appropriate.<sup>87</sup> As a cautionary note, individual PLS frames and review frames with tactual exercises cannot be abstract — they must deliver to and request from the student concrete information.<sup>88</sup> A PLS would be an inappropriate teaching tool if the professor's goal would be to have students examine a multiple of writings and construct a variety of answers. A PLS would be equally inappropriate if the professor wanted to pose multiple hypothetical questions to her students and expected numerous responses.

Because a PLS is not effective for all students, professors should not construct an entire course solely based upon a single PLS. A PLS can be given to a class along with a variety of other teaching tools that appeal to different learning styles strengths.<sup>89</sup> Furthermore, there will be voluminous information needed for inclusion in a PLS, thus an entire course would be unmanageable in a PLS. Discrete lesson plans would be preferable.

The student who would most likely benefit from using a PLS would be one who (1) enjoys working alone, or in pairs; (2) is persistent, meaning the student will work with it until completion;<sup>90</sup> (3) enjoys "reading text supported by illustrations [and] tactuals . . .";<sup>91</sup> (4) prefers structure; and (5) enjoys learning "in small steps

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<sup>86</sup> For example, legal writing professors could give a PLS to incoming students who need assistance with the basics of writing. Dr. Sue Ellen finds the PLS very helpful for incoming college students at Northeastern State University who need to catch up with her other students. Sue Ellen Read, Dir., Okla. Inst. of Learning Styles, Prof., N.E. St. Univ., Presentation, *24th Annual Learning Styles Leadership Certification Institute* (New York, N.Y., July 25, 2001).

<sup>87</sup> Dr. Rose Lefkowitz finds the PLS to be very effective for many of her college health law students in a Health Information Management Program. Interview with Rose Frances Lefkowitz, former Asst. Prof., Downstate Med. Ctr. (July 25, 2001).

<sup>88</sup> In the Boyle & Dolle PLS, the most abstract concept involved explaining how to frame a legal issue from a sample fact pattern. Admittedly, a variety of statements could have been explored, but only one was given as an example with the caveat that students' responses may vary.

<sup>89</sup> These different teaching tools, such as the Contracts Activity Package and the Multisensory Resource Alternatives, are outlined in Dunn & Dunn, *supra* n. 83, at 85-119.

<sup>90</sup> *Id.* at 121.

<sup>91</sup> *Id.* Dunn & Dunn further suggest that the professor put the PLS on a tape recorder for the auditory learners. Such tapes would be beneficial for students who prefer to learn by "hearing the material read to them." *Id.*

followed by periodic gamelike reinforcements.”<sup>92</sup> Because a PLS is self-paced, a student who likes to take time in doing a learning task can proceed independently.

A PLS can be given to students as either a take-home or in-classroom assignment. A professor is likely to feel superfluous as students progress through a PLS independently at their desks without need for lecture or guidance. But the work of the professor went into the preparation of the PLS, and, as students accomplish the PLS, the students are concentrating. The benefit to having students work with the PLS in the classroom, from start to finish, is that the professor knows that the students actually did the work and also the professor could immediately pretest and posttest her class to measure content absorption.

Because students are diverse, law teachers should alter and diversify their teaching methods and materials. We are not alone in this call. Law teachers across the country are encouraging law school faculty to employ a variety of teaching styles.<sup>93</sup>

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<sup>92</sup> *Id.* By placing a broad story in the first frame of the PLS and by including a humorous title, global students (as opposed to analytic students) find these touches appealing. *Id.*

<sup>93</sup> *E.g.* Friedland, *supra* n. 22, at 13 (concluding that “[s]ince students have various learning styles predicated on differing cognitive structures and beliefs . . . tailoring the delivery of legal education to how students learn best may improve the effectiveness of the pedagogy”); Paula Lustbader, *Principle 7: Good Practice Respects Diverse Talents and Ways of Learning*, 49 *J. Leg. Educ.* 448, 448 (1999) (encouraging educators to “respect all forms of diversity” including “diverse learning styles, forms of intelligence, previous experiences, level of preparation for learning, external environments, values, and goals”); Paula Lustbader, *Teach in Context: Responding to Diverse Student Voices Helps All Students Learn*, 48 *J. Leg. Educ.* 401, 411 (1998) (encouraging teachers to use various techniques such as experiential, writing and collaborative exercises and to “integrate a full range of learning exercises into [their] teaching”).

## APPENDIX A

### PRODUCTIVITY ENVIRONMENTAL PREFERENCE SURVEY: REPRESENTATIVE CLASS PROFILE OF ST. JOHN'S UNIVERSITY LAW STUDENTS - 1998

Distributions of Opposite-Preferences, Non-Preferences, and  
Strong-Preferences for 21 Learning-Style Elements\*

PEPS Element	% Opposite- Preferred <39	% Non- Preferred 40-59	% Strong- Preferred >60	No. of Miss- ing Cases
Noise	2	88	10	2
Light	28	48	23	2
Temperature	9	70	19	2
Design	24	55	19	2
Motivation	6	79	13	2
Persistence	5	84	9	2
Responsibility	19	64	15	2
Structure	2	44	54	2
Alone	25	57	15	2
Authority	6	64	29	2
Varied	17	75	7	2
Auditory	6	64	29	2
Visual	9	80	8	2
Tactual	9	66	24	2



Kinesthetic	2	86	10	2
Intake	2	44	54	2
Evening-Morning	40	53	5	2
Late Morning	6	64	29	2
Afternoon	17	75	7	2
Mobility	4	57	37	2

**\* Percentages do not always add to 100 due to rounding.**

The Productivity Environmental Preference Survey (PEPS) was used to collect data for this study. The data collected represents answers to 100 statements that elicit self-diagnostic responses. For instance, one statement reads, "I prefer working in bright light."<sup>94</sup> The student would then choose one answer from the following choices: strongly disagree; disagree; uncertain; agree; or strongly agree. The data yield a computerized profile of each student's preferred learning style.

Strong Preferences are measured by high scores (see column above titled "% Strong-Preferred >60).") Some opposite Strong Preferences are measured by low scores (see column above titled "% Opposite-Preferred <39).") Reactions that are not strong on either end are tabulated for the middle of the continuum (see column above titled "% Nonpreferred 40-59").<sup>95</sup>

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<sup>94</sup> Boyle & Dunn, *supra* n. 1, at app.1 (explaining the PEPS).

<sup>95</sup> There are exceptions to this pattern. For instance, scores of evening/morning time preferences and intake do not fall into this pattern.

## APPENDIX B

### Sample Frames from PLS I Manual and PLS II Manual

#### OBJECTIVES<sup>96</sup>

Being able to efficiently perform legal research is a necessary skill for lawyers, and this Programmed Learning Sequence (PLS) was carefully designed to help you obtain these skills. Soon you will be responsible for both researching and writing an office memorandum that informs a senior attorney about the law and how the law pertains to your particular client. Before you embark on the open memo research project, you need to learn the basics, which are provided in this PLS.

By the time you have completed this program, you should be able to:

1. identify and have a working knowledge of **primary authority**;
2. develop an understanding of the structure of our **federal and state court system** and become familiar with **case reporters** that contain decisions of those courts;
3. identify **case reporters** provided in legal citations;

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<sup>96</sup> Robin A. Boyle & Lynne Dolle, Programmed Learning Sequence 1 – Legal Research: A Method to Its Madness [Topic: Teaching Manual Legal Research to Law Students – Court Systems and Other Branches of Government, Primary Authority, Reporters and Statutes], on file with author.

4. formulate **issues** for conducting legal research posed in fact patterns; and
5. describe the essential components of **annotated statutes**.

## HOW TO USE THIS PROGRAM

Each information card in this Programmed Learning Sequence is called a frame. You will find new information about legal research on each frame. Please go through this booklet carefully. You will be asked to read the statement or questions on each frame and write the answers to the question or questions at the bottom of the frame. Sometimes a frame is continued. You may check your answers on the back of the frame.



## VOCABULARY

Here are some terms you will come across while doing legal research in the law library. You will want to look at them before you read on. By the time you have finished reading Legal Research: A Method to Its Madness, you will know every one of them and will be well prepared for the posttest.

**“Primary authority”** is the law. The legislature, judiciary and administrative agencies have law-making capacities; therefore,

primary authority appears in sources that they produce. You may find primary authority in: legislation (called statutes), judicial case law (also called court decisions), and administrative regulations and decisions. The legislative bodies at the federal, state, and local levels also create constitutions, charters, and ordinances.

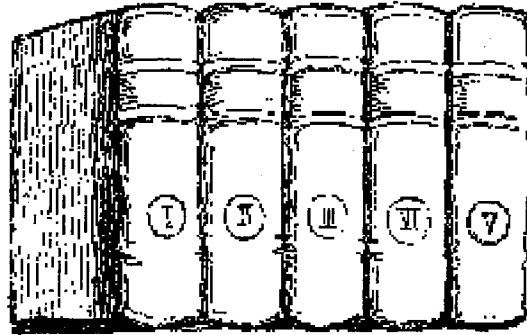
**“Statute”** is an enactment by a legislature and is considered a type of primary authority. Statutes and ordinances regulate a wide range of behavior by individuals, private entities, and the government.

**“Judicial case law”** or **“court decisions”** are pronouncements by courts as to their decisions regarding particular legal cases. They are considered a type of primary authority.

**“Legal citation”** is the abbreviation used in referring to a source where one could find in printed form, primary or secondary authority. The lawyers’ handbook for finding proper legal citation is called *The Bluebook*.

**“Case annotation”** is a summary of a case.

**“Fact pattern”** or **“statement of facts”** explains what has brought your client to your law firm for his or her particular legal problem or endeavor.



**Selected Frames from PLS I**<sup>97</sup>**Frame 1****PRIMARY AUTHORITY**

Once upon a time, kings decreed the rules and regulations that citizens had to obey. However, in the United States, rules and regulations emanate from the law. Just how laws are made is the subject of this Programmed Learning Sequence (PLS).

American law emanates from three types of government bodies: the **legislature**, the **judiciary**, and **administrative agencies**. Each has law-making capacities and each produces what we call **primary authority**. The legislature issues statutes; the judi-

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<sup>97</sup> For a complete copy of PLS I and PLS II, contact Robin Boyle: [boyler@stjohns.edu](mailto:boyler@stjohns.edu).

ciary issues case law, also called case decisions; and administrative agencies issue administrative regulations and decisions.

Write one answer on each line below.

1) Three types of government bodies that produce laws are

\_\_\_\_\_,  
\_\_\_\_\_ and  
\_\_\_\_\_.

2) Statutes emanate from the following governmental body:

\_\_\_\_\_

3) Case decisions emanate from the following governmental bodies:

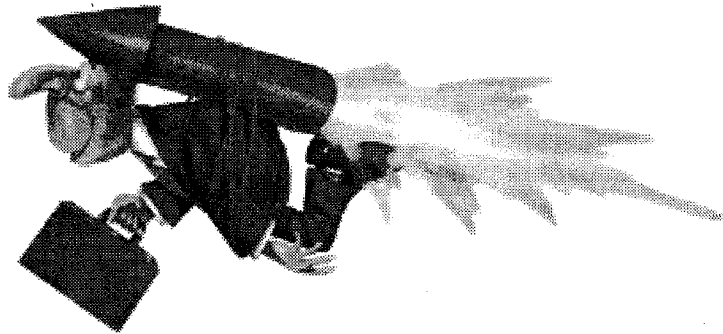
\_\_\_\_\_



## ANSWERS

- 1) Three types of government bodies that produce laws are: the **legislature, judiciary, and administrative agencies.**
- 2) Statutes emanate from the **legislature.**
- 3) Case decisions emanate from the **judiciary (or courts) and administrative agencies.**

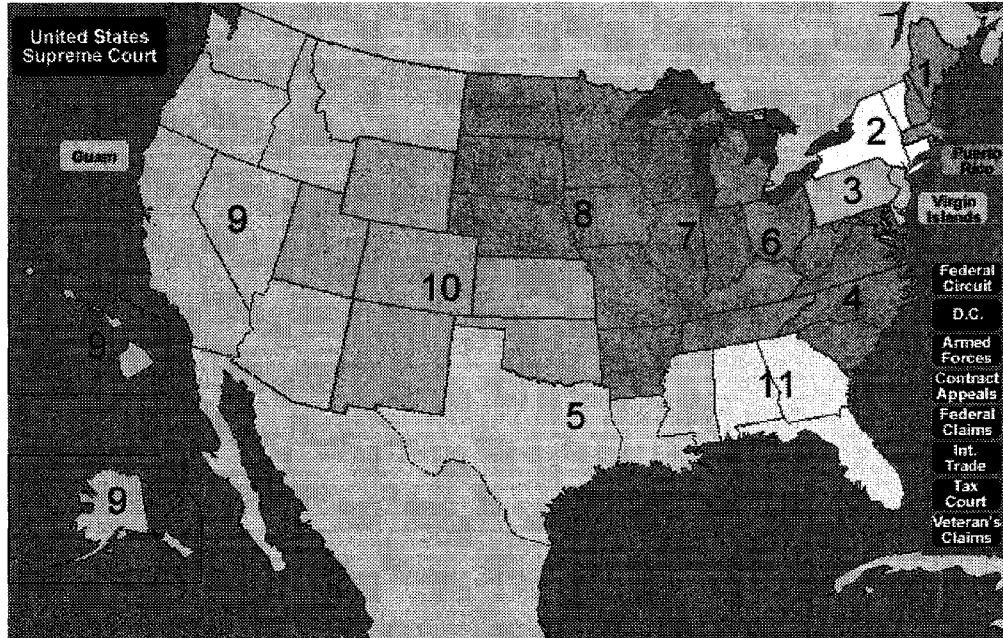
You're off to a good start!



## Frame 3

### UNITED STATES COURTS OF APPEALS

#### CIRCUITS OF UNITED STATES COURTS OF APPEALS



Source: <http://www.law.emory.edu/FEDCTS/>

The **United States Courts of Appeals** is divided into **circuits** throughout the country. New York sits in the Second Circuit, which is often abbreviated as *2d Cir.*

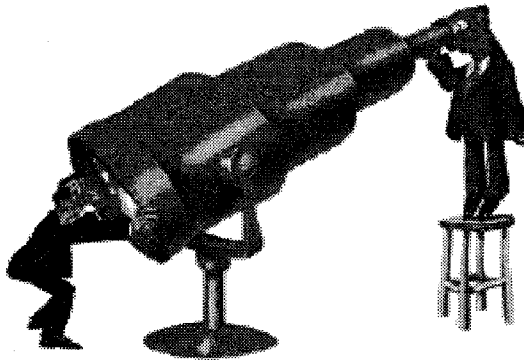
Write one answer on each space below. Refer to the diagram.

- 1) St. John's University sits in the \_\_\_\_\_ Circuit for the United States Court of Appeals.
- 2) California is included in the \_\_\_\_\_ Circuit.
- 3) There are a total of \_\_\_\_ federal circuits.

**ANSWERS**

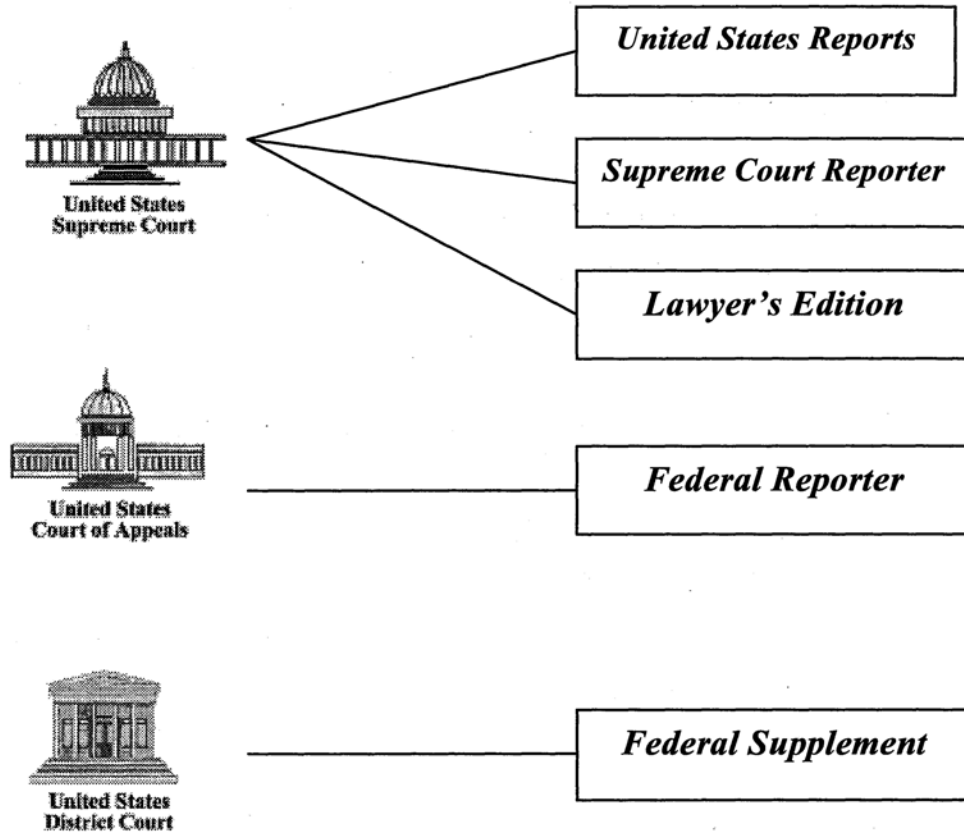
- 1) St. John's University sits in the **Second** Circuit for the United States Court of Appeals.
- 2) California is included in the **Ninth** Circuit.
- 3) There are a total of **13** federal circuits – 11 numbered circuits, the D.C. circuit, and the Federal circuit.

Keep focusing.



## Frame 6

### COURTS REPORTERS



The case decisions of the **United States Supreme Court** appear in three published reporters:

***United States Reports*** (official reporter)

***Supreme Court Reporter*** (unofficial reporter)

***Lawyer's Edition*** (unofficial reporter)

The case decisions of the **United States Courts of Appeals** are usually cited in one reporter: ***Federal Reporter***.

The case decisions of the **United States District Courts** are usually cited in one reporter: ***Federal Supplement***.

Draw a line to connect the **courts** on the left with the **appropriate reporter (s)** on the right. Check your answers on the back of this frame.

**COURTS**

United States Court of Appeals  
for the Second Circuit

United States District Court  
for the Southern District of New York

United States Supreme Court  
(2 **unofficial reporters**)

United States Supreme Court  
(**official reporter**)

**REPORTERS**

*Supreme Court Reporter*

*Federal Supplement*

*Lawyer's Edition*

*Federal Reporter*

*United States Reporter*

**ANSWERS****NAMES OF THE COURTS ARE PLACED NEXT TO  
COURT REPORTERS**

United States Court of Appeals  
for the Second Circuit

*Federal Reporter*

United States District Court  
for the Southern District of New York

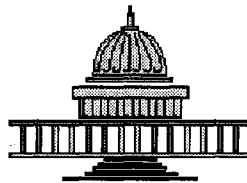
*Federal Supplement*

United States Supreme Court  
(unofficial)

*Supreme Court Reporter and  
Lawyer's Edition*

United States Supreme Court  
(official)

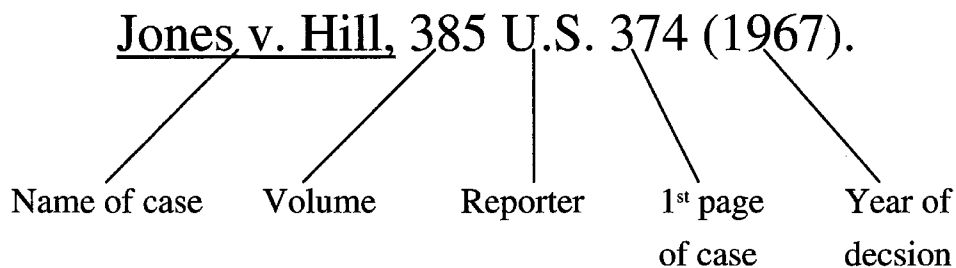
*United States Reports*



**Frame 11****CASE CITATIONS**

One helpful hint for reading a proper legal citation is that the **volume of the reporter usually precedes the reporter's name and the first page of the case follows the reporter name:**

Let us decipher:



**Jones v. Hill** is the case name.

**385** means volume 385 of the particular reporter cited

**U.S.** means the *United States Reports* is the cited reporter

**374** means the case begins on that page

**1967** is the year the case was decided





**ANSWERS**

- |                           |                                  |
|---------------------------|----------------------------------|
| <u>Doe v. Smith</u> means | a) the name of the case.         |
| 271 means                 | b) the volume of the reporter    |
| 582 means                 | b) the first page of the case    |
| 1968 means                | b) the year the case was decided |

Stretch in your seat if your feel like it!



**Frame 18****MATCHING COLUMNS REVIEW**

Let's stop here to review what you have learned so far. Fill in the letter for the correct response. Check your answers on the back of this frame. You may refer to the preceding frames to refresh your memory.

- (a) The volume of a reporter usually \_\_\_\_\_ how they are organized.
- (b) The first page of the case \_\_\_\_\_ court of appeals, appellate division, and supreme court.
- (c) State reporter systems vary in terms of \_\_\_\_\_ four departments.
- (d) The order of the New York State courts, beginning with the highest is \_\_\_\_\_ follows the reporter's name in a proper legal citation.
- (e) The Appellate Division of the Supreme Court is divided into \_\_\_\_\_ the abbreviation for *Miscellaneous Reports* in the second series.

- (f) The unofficial reporter for the New York cases is called \_\_\_\_\_ precedes the reporter's name in a legal citation
- (g) *Misc. 2d* is \_\_\_\_\_ the *New York Supplement*
- (h) *A.D.2d* is \_\_\_\_\_ the abbreviation for *New York Reports, Second Series*
- (i) *N.Y.2d* is \_\_\_\_\_

**ANSWERS****MATCHING COLUMNS REVIEW**

- |   |   |
|---|---|
| (a) The volume of a reporter usually                                      | (c) how they are organized.   |
| (b) The first page of the case  | (d) court of appeals, appellate division, and supreme court                 |
| (c) State reporter systems vary in terms of                               | (e) four departments.   |
| (d) The order of the New York State courts, beginning with the highest is | (b) follows the reporter's name in a proper legal citation.                 |
| (e) The Appellate Division of the Supreme Court is divided into           | (g) the abbreviation for <i>Miscellaneous Reports</i> in the second series. |
| (f) The unofficial reporter for the New York cases is called              | (a) precedes the reporter's name in a legal citation                        |
| (g) <i>Misc. 2d</i> is  | (f) the <i>New York Supplement</i>  |

(h) *A.D.2d* is

(h) the abbreviation for  
*Appellate Division Reports,*  
*Second Series*

(i) *N.Y.2d* is

(i) the abbreviation for  
*New Reports, Second Series*

Stand up and take a break. You deserve one.

Just don't distract someone else!

## Frame 20

### THE STATEMENT OF FACTS: SLEEZE PRESS CASE

#### FRAMING THE ISSUE

All legal research problems begin with a **“Statement of Facts”** that explains the factual circumstances that brought your client to your law firm for his or her particular legal problem or endeavor. Your client may ask (a) if he or she has a basis for a lawsuit, (b) how a particular corporate restructuring should occur, or (c) about any other conceivable legal issue under an unlimited number of factual circumstances. Sometimes you are given more facts than you need to answer a particular legal question and, therefore, you will need to (a) **“frame the issues”** to weed out the irrelevant facts and (b) **focus** better.

Write an answer on the line below.

A Statement of Facts explains \_\_\_\_\_

---



**ANSWER**

A Statement of Facts explains **the factual circumstances that have occurred, which is the basis for why your hypothetical client needs legal assistance.**

Clients may want to tell you much more than you really need to know!





**Frame 26****THE USEFULNESS OF AN ANNOTATED STATUTE**

§50 LAW	CIVIL RIGHTS
§50. Right of privacy	Art. 5
<p>A person, firm or corporation that uses for advertising purposes, or for the purposes of trade, the name, portrait or picture of any living person without having first obtained the written consent of such person, or if a minor of his or her parent or guardian, is guilty of a misdemeanor. (L.1909. c. 14.)</p>	
<p align="center"><b>Historical and Statutory Notes</b></p>	
<p>Derivation. Section derived for L. 1903 c. 132 §1.</p>	
<p align="center"><b>Cross References</b></p>	
<p>Cable television company, liability for invasion of privacy. see-Executive Law §8.30</p>	

Section 50 of the New York Civil Rights Law was copied from a publication produced by *West Publishing Co.* in *McKinney's Session Laws of New York*. *McKinney's* statutes are annotated, meaning that the publisher added material that can assist you in doing research.

As you see above, Cross References contained a suggestion to look under the Executive Law.

Write one answer in the space below.

Cross References generally provide

---

---

Refer to the sample above. The Cross References provided a reference to what kind of primary authority? \_\_\_\_\_

## ANSWERS

Cross References generally provide added material **that may assist you in doing your research.**

Cross References provided a reference to a **statute - the Executive Law § 830.**

Stay focused. Continue to cross-reference.

You're almost there!



**OBJECTIVES<sup>98</sup>**

Being able to efficiently perform legal research is a necessary skill for lawyers, and this Programmed Learning Sequence (PLS) was carefully designed to help you obtain these skills. Soon you will be responsible for both researching and writing an office memorandum that informs a senior attorney about the law and how the law pertains to your particular client. Before you embark on the open-memo research project, you need to learn the basics, which are provided in this PLS.

By the time you have completed this program, you should be able to:

1. use **finding tools** to locate case annotations on your topic;
2. understand **publishers' aids** when reading cases;
3. use the ***Index to Legal Periodicals*** to find useful articles on your topic;
4. interpret a **citation** to a legal periodical; and
5. have a working knowledge of a variety of **secondary sources**.

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<sup>98</sup> From Robin A. Doyle & Lynne Dolle, Programmed Learning Sequence 2 -- Legal Research: A Method to Its Madness [Topic: Teaching Manual Legal Research to Law Students – Digests, Cases, and Secondary Authority], on file with authors.

## VOCABULARY

Here are some terms you will come across while doing legal research in the Law Library. You will want to examine them before you continue. By the time you have finished reading Legal Research: A Method to Its Madness, you will be aware of every one of them and be well prepared for the posttest.

**“Secondary authority”** is commentary *about* the law. Secondary authority is what a non-lawmaking authority wrote about primary authority. You may find secondary authority in *American Jurisprudence* (Am. Jur.), encyclopedias, periodicals, *American Law Reports* (A.L.R.), treatises, and Restatements. Secondary authority generally contains footnotes leading to primary and other secondary sources.

**“Finding tools”** are resources that *assist* you in obtaining both primary and secondary authority. Finding tools consist of digests, *Shepard’s Citations* and primary and secondary authority. (*Shepard’s Citations* are not covered in this manual).

**“Digests”** are a finding tool. Digests provide information that will lead you to primary authority.

**“Periodicals”** are publications published by law students and other professional entities at regular intervals. [Note: **“articles”** are pieces written by legal scholars, lawyers and judges; **“notes”** and **“comments”** are pieces written by law students].

**“Index to Legal Periodicals”** provides a listing of periodicals organized alphabetically by topic and by author.

**“Encyclopedias”** are resources that summarize the law on a wide variety of topics and are organized alphabetically by topic. Encyclopedias are generally written by staff editors at the publishing company, rather than by well-known experts in the legal field.

**“New York Jurisprudence”** is an encyclopedia that covers the law in New York State. It is abbreviated as *N.Y. Jur.*

**“American Jurisprudence”** is an encyclopedia that covers state and federal law. It is abbreviated as *Am. Jur.*

**“American Law Reports”** reprints state and federal court decisions on particular topics that are published elsewhere, and it also provides articles. It is abbreviated as *A.L.R.*

**“Restatements of the Law”** are written on specific topics, such as torts, and are highly regarded because they seek to unify federal case law. They are written by scholars and serve as authoritative statements. Although not considered to be primary authority, Restatements are sometimes quoted in court decisions when courts describe the state of the law on a particular legal topic.

**“Treatises”** cover a single topic of the law with great detail of information. They are secondary authority because they are written about the law. Scholars write most treatises, although publishers’ staff write some.

**Frame 1****FINDING TOOLS-DIGESTS**

Sleeze Press, a book publisher, intends to take newsbreaking stories and, by slightly changing the names of the participants and additional surrounding circumstances, publish fictionalized accounts of actual persons and events. If you were asked to research whether Sleeze Press can be liable for invasion of privacy by the actual persons depicted in the book, one place to begin is with finding tools.

As you would no doubt guess, you will need assistance in locating pertinent materials in primary and secondary authorities for this topic. **Finding tools** are resources that will help you to do so. Finding tools consist of digests, *Shepard's Citations*, and other primary and secondary authority. [Note: You will use legal digests for research purposes but you would never cite them as a source for formal writing].

Answer the following questions in the spaces provided below.

What is a finding tool?

---

---

What are two (2) examples of finding tools?

---

---

You would never cite \_\_\_\_\_ as a source for formal writing.



**ANSWERS**

Finding tools are resources that lead you to primary and secondary authority.

Digests and Shepard's Citations are two (2) examples of finding tools.

You would never cite legal digests as a source for formal writing.

You're off to a good start!



**Frame 7****CASE ANNOTATIONS IN DIGESTS**

Once you understand the specific topic to research - “use of name or picture” and its key number 8.5(6) - you would turn further into the digest to find references to useful cases on that topic.

Look on the next page for **key number** 8.5(6) on the narrow topic of “use of name or picture.” What follows from that heading are **case annotations** with citations. As you have learned last week from studying annotated statutes, these case annotations will help you to understand what courts have decided in interpreting the right of privacy in New York State on the narrow topic of name, portrait or picture.

In looking at the first annotation under the heading “use of name or picture,” you may have surmised that the case of Pirone v. MacMillan, Inc. held that the right of privacy in New York was limited to living persons only.



**Key #8.5 (5)****TORTS****For later cases see same Topic**

N.Y. Sup. 1984. Conveying likeness of person, not graphically, but through sound, by means of limitation of distinctive voice, does not come within prohibition of civil rights statute prohibiting misappropriation of living person's name or likeness for commercial purposes. McKinney's Civil Rights Law §§ 50, 51.

*Onassis v. Christian Dior-New York, Inc.*,

472 N.Y.S.2d 254, 122 Misc.2d 603, affirmed 488 N.Y.S.2d 943, 110 A.D.2d 1095.

Key # 8.5(6). — Use of name or picture.

C.A.2 (N.Y.) 1990. Right of privacy protection under New York Civil Rights law was clearly limited to living persons. N.Y. Civil Rights Law §§ 50, 51.

*Pirone v. MacMillan, Inc.*, 894 F.2d 579.

New York civil rights law, permitting right of privacy protection for living persons, preempted any common law right of publicity action. N.Y. Civil Rights Law §§ 50, 51.

*Pirone v. MacMillan, Inc.*, 894 F.2d 579.

Write an answer in the space provided below.

In the case annotation above for Onassis v. Christian Dior-New York, Inc., the court held that conveying likeness of a person through sound

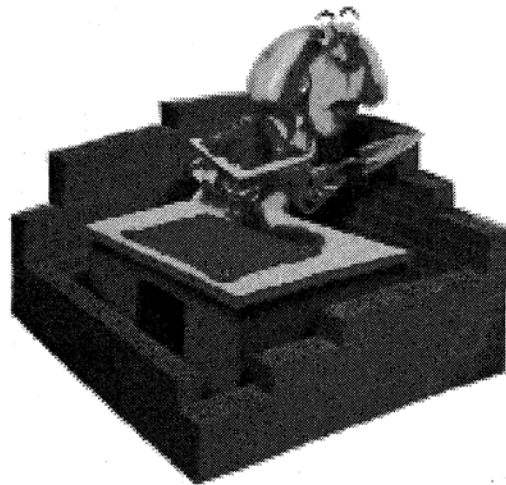
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**ANSWER**

In the case annotation for Onassis v. Christian Dior-New York, the court held that conveying likeness of a person through sound is not encompassed by § 50 of the civil rights statute.

We all have a right to privacy.



**Frame 8****CUMULATIVE SUPPLEMENTS****OTHERWISE KNOWN AS****POCKET PARTS**

As a lawyer, you will want to know the most recent case or statute on your topic. Lawyers have been faced with dismissal from their jobs for failure to do this simple task of checking **pocket parts**.

Digests need to be updated periodically because new cases are reported daily. Rather than reprint hard volume texts over and over again, publishers produce soft covered **“cumulative supplements,”** otherwise known as “pocket parts,” which contain information leading to more recent primary authority. These supplements either stand alone on the library shelves next to their hard cover counterparts, or they are slipped into the hard cover book, earning the name “pocket parts.”

Circle the correct answer below.

An often-repeated word of advice is: “Don’t forget to check the pocket parts!”

Checking the pocket parts is so important because the pocket parts contain information leading to the \_\_\_\_\_ authority.

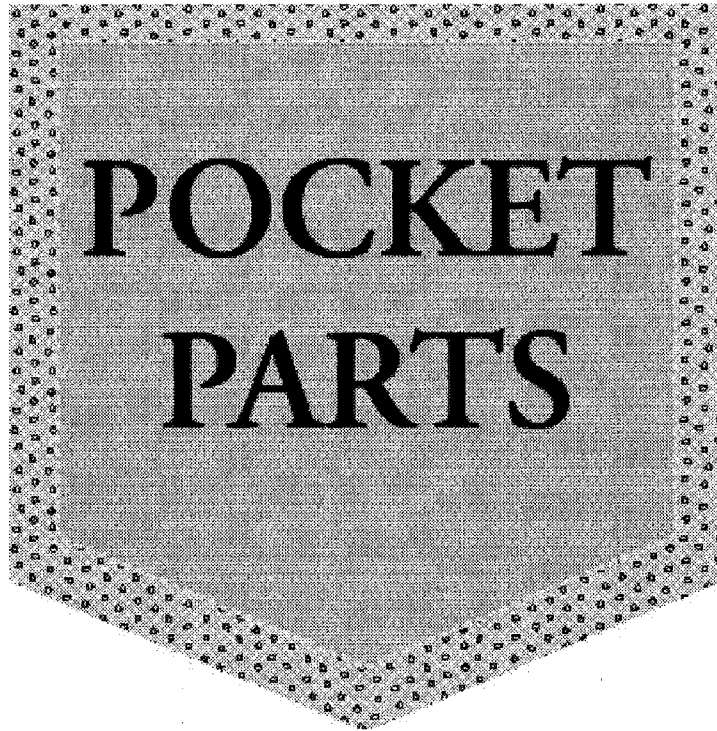
**most recent**

**oldest**

**Latin version**

**ANSWER**

Pocket parts contain the **most recent** authority.





Frame 10

MOVING FROM FINDING CASES IN THE DIGEST (FINDING TOOL) TO READING THE ACTUAL CASES FROM A CASE REPORTER

(PRIMARY AUTHORITY)

The diagram illustrates the transition from a finding tool to a case reporter. It consists of two shaded rectangular areas side-by-side, enclosed in a larger frame. Five numbered circles (1-5) with arrows point to specific elements in both documents:

- Circle 1:** Points to the volume and series information: "472 NEW YORK SUPPLEMENT, 2d SERIES" in the finding tool and "122 Misc.2d 603" in the case reporter.
- Circle 2:** Points to the specific finding text: "*a situation that we should not encourage in matrimonial litigation . . . .*" in the finding tool.
- Circle 3:** Points to the case reporter's page number: "603" in the case reporter.
- Circle 4:** Points to the case name: "CHRISTIAN DIOR-NEW YORK, INC., Lansdowne Advertising, Inc., Richard Avedon, Barbara Reynolds and Ron Smith Celebrity Look-Alikes, Defendants." in the case reporter.
- Circle 5:** Points to the court information: "Supreme Court, Special Term, New York County, Part I." in the case reporter.

The finding tool (left) contains the following text:

254

*a situation that we should not encourage in matrimonial litigation . . . .*

(Emphasis added)

Consequently, on this record the court would consider the plaintiff's request for a \$35,000 counsel fee through the trial of the action as being reasonable give the amounts at stake, the complexity of the issues presented, the standing of the respective counsel, and the husband's failure to disclose his own arrangements.

[6] Nevertheless, it is unnecessary at this time to make an award which will carry though the trial of the action. Because further interim relief can be sought.

The case reporter (right) contains the following text:

122 Misc.2d 603

Jacqueline Kennedy ONASSIS, Plaintiff,

v.

CHRISTIAN DIOR-NEW YORK, INC.,  
Lansdowne Advertising, Inc.,  
Richard Avedon, Barbara Reynolds and  
Ron Smith Celebrity Look-Alikes, De-  
fendants.

Supreme Court, Special Term,  
New York County, Part I.

Jan. 11, 1984

Assume that you have successfully mastered the use of the digests and have located a case annotation in the digests to Onassis v. Christian Dior-New York, Inc. You learned last week not to rely upon what a publisher wrote about that case, so you would go to the library shelves and pull the case to read it in its case reporter.

Look at this case. Refer to this chart to help you decipher the information.

**CIRCLED  
NUMBERS:**

**REFER TO:**

1	citation in the reporter in which this case appears
2	page from the reporter in which this case starts
3	citation in the parallel reporter
4	name of the case
5	court deciding the case

**Frame 10 cont'd**

Write one answer on each line below.

The Onassis v. Christian Dior-New York, Inc. case was copied from the \_\_\_\_\_ reporter.

The citation to the parallel reporter is

\_\_\_\_\_.

The page from the reporter in which case starts is

\_\_\_\_\_.

The court deciding the case is \_\_\_\_\_.

**ANSWERS**

The Onassis v. Christian Dior-New York, Inc. case was copied from the New York Supplement, Second Series.

The citation to the parallel reporter is 122 Misc.2d 603.

The page from the reporter in which the case starts is 254.

The court deciding the case is the Supreme Court, Special Term.

Stretch in your seat if you feel like it.



**Frame 15****SECONDARY AUTHORITY**

Thus far, you have learned how to find cases by using the digests, a finding tool.

Another way to find cases is by researching secondary authority. Secondary authority is legal material written about the law.

Circle the correct answer below.

Secondary authority generally provides:

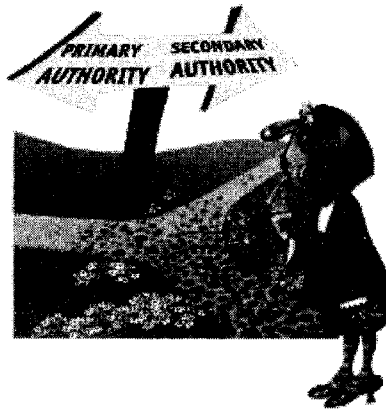
**the actual law**

**statutes**

**information leading to primary and other secondary authority**

**ANSWER**

Secondary authority provides information leading to **primary and other secondary authority.**



**Frame 16****SECONDARY AUTHORITY**

One example of secondary authority is **legal periodicals**. Legal periodicals are regularly published law journals that contain:

- articles written by legal scholars, lawyers, and judges;
- student pieces which are called either:

a “note” if it is written about a general legal topic; or

a “case comment” if it is written about a single current case.

Place a star (\*) next to the correct answers:

\_\_\_\_\_ Articles are written by legal scholars, lawyers, and judges.

\_\_\_\_\_ Pieces that law students write are called articles.

\_\_\_\_\_ A legal periodical is secondary authority.

\_\_\_\_\_ Pieces that law students write are sometimes called “notes.”

**ANSWERS**

\_\_\_\* Articles are written by legal scholars, lawyers, and judges.

\_\_\_ Pieces that law students write are called articles.

\_\_\_\* A legal periodical is secondary authority.

\_\_\_\* Pieces that law students write are sometimes called "notes."

There is much to absorb. You're almost there!





**Frame 17****INDEX TO LEGAL PERIODICALS**

Look at the sample below of an excerpt from the *Index to Legal Periodicals*.

\_\_\_\_\_ Riga, Peter J.

The nature and obligation of law: the relationship of power and violence to law. 24 S. Tex. L.J. 149-69 '83.

\_\_\_\_\_ Right to a Fair Trial

An amendment of the use of camera in state and federal courts. 18 Ga. L. Rev. 389-424. Wint. '84

Place a star (\*) next to the correct answer below.

The *Index to Legal Periodicals* is organized by:

\_\_\_ author of the article or student note/comment

\_\_\_ topic

\_\_\_ both author and topic

**ANSWERS**

The *Index to Legal Periodicals* is organized by:

\_\_\_ author of the article or student note/comment

\_\_\_ topic

\_\_\_\* both author and topic

Keep focusing.



## Frame 19

## LEGAL ARTICLES

**Albany Law Review** → ①

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Volume 48 → ②      Fall 1983 → ③      Number 1

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RIGHT OF PRIVACY - APPROPRIATION OF A  
PERSON'S NAME, PORTRAIT, OR PICTURE FOR  
ADVERTISING OR TRADE PURPOSES WITHOUT  
PRIOR WRITTEN CONSENT: HISTORY AND SCOPE IN  
NEW YORK → ④

*Lawrence Edward Savell\** — ⑤

In the recent case of *Arrington v. New York Times Co.*,<sup>1</sup> the New York Court of Appeals, faced with a plaintiff's claim that his picture had been printed without his permission on the cover of the paper's Sunday *Magazine* section, noted the narrow scope of protection for invasions of privacy afforded by the law of New York.

The statutory scheme<sup>(2)</sup> was enacted as a direct response to *Roberson*

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\* Associate, Chadbourne, Parke, Whiteside & Wolff, B.A., Cornell University, 1979; J.D., University of Michigan Law School, 1982. Member of the New York Bar. The author gratefully acknowledges the encouragement of the members of Chadbourne, particularly Donald I. Strauber, and the initial direction of Professor Douglas Kahn of Michigan Law School.

<sup>1</sup> 55 N.Y.2d 433, 434 N.E.2d 1319, 449 N.Y.S.2d 941 (1982), *cert. denied*, 103 S. Ct. 797 (1983).

Now that you have located how to find the listings of articles in the *Index of Periodicals* either by topic or author, take a look above at what an actual article would look like if you pulled it from the shelf and found it in a legal periodical.

**Frame 19 cont'd****CIRCLED****NUMBERS:****REFER TO:**

1	name of periodical
2	volume of periodical
3	publication date
4	name of article
5	author's name

Write one answer on each line below. Refer to the actual article above.

The volume of the periodical is \_\_\_\_\_.

The name of the periodical is \_\_\_\_\_.

The first three words in the name of the article are

\_\_\_\_\_.

**ANSWERS**

The volume of the periodical is 48.

The name of the periodical is *Albany Law Review*.

The first three words in the name of the article are Right of Privacy.

## Frame 25

**ENCYCLOPEDIA - AMERICAN JURISPRUDENCE 2d**

Another useful authority is "*American Jurisprudence, Second Edition.*" It is an encyclopedia that summarizes state and federal law. It is abbreviated as *Am. Jur. 2d*. Another encyclopedia that also summarizes state and federal law is the *Corpus Juris Secundum*.

# AMERICAN JURISPRUDENCE

SECOND EDITION

A MODERN COMPREHENSIVE TEXT STATEMENT  
OF AMERICAN LAW

STATE AND FEDERAL

COMPLETELY REVISED AND REWRITTEN  
IN THE LIGHT OF MODERN AUTHORITIES AND DEVELOPMENTS  
BY THE EDITORIAL STAFF OF THE PUBLISHERS

GENERAL INDEX

1997 EDITION

M-Q



Lawyers Cooperative Publishing™  
Aqueduct Building, Rochester, New York 14694

Circle the correct answers.

Am. Jur. is considered to be

**secondary authority    primary authority**

If you were researching a question concerning federal law you would use

**Am. Jur.    *New York Jurisprudence***

**ANSWERS**

Am. Jur. is considered to be **secondary authority** because it summarizes state and federal law.

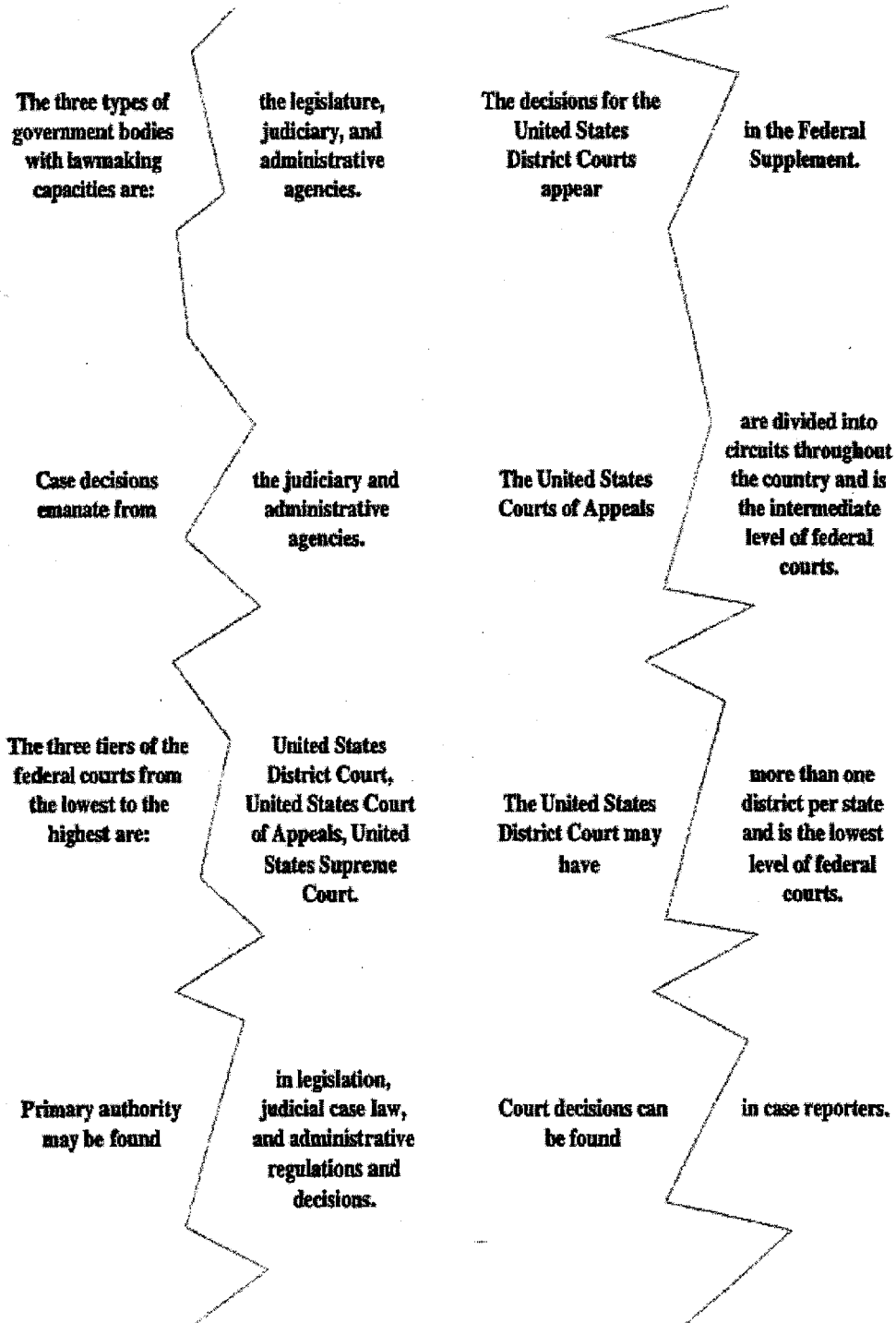
If researching federal law, you would use **Am. Jur.** because *New York Jurisprudence* summarizes state law.

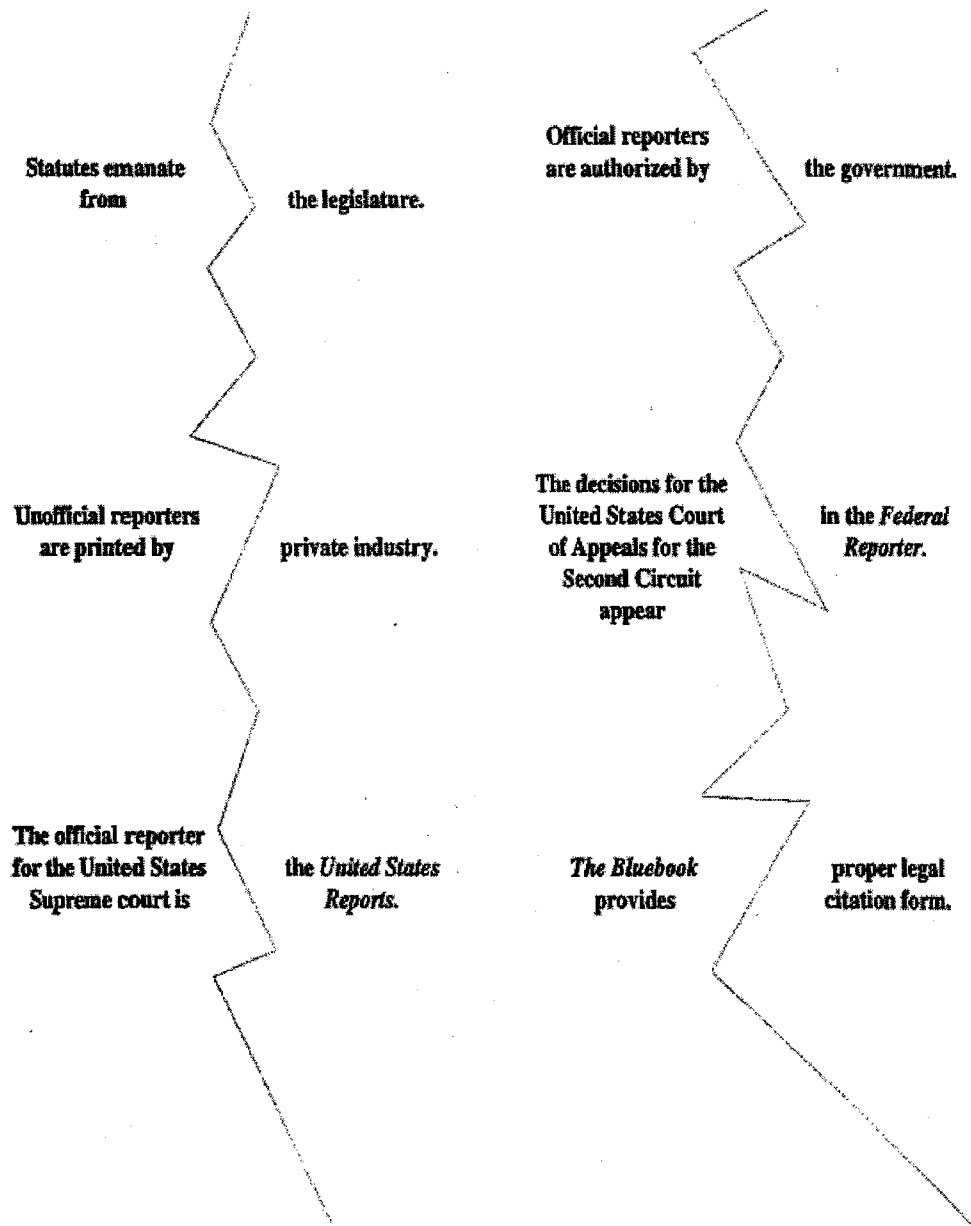
Encyclopedias will be useful in your research.





### Sample of Tactual Review Test: Puzzle





**Sample of Tactual Review Test: Poke-A-Hole**

<b>The United States District Court has at least</b>		
one district per state and is the intermediate federal court	one district per state and is the lowest fed- eral court	10 courts per state and is the lowest federal court
●	●	●

<b>Court decisions can be found in</b>		
official reporters only	fact patterns	case reporters
●	●	●

<b>Unofficial reporters are printed by</b>		
judges	private industry	agents of the government
●	●	●

<b>The decisions for the United States Court of Appeals for the Second Circuit appear in the</b>		
<i>Lawyer's Edition</i>	<i>Federal Reporter</i>	<i>The Bluebook</i>
●	●	●

<b>In a proper legal citation to a case decision, the first page of the case decision</b>		
precedes the reporter's name in a proper legal citation	follows the year in a proper legal citation	follows the reporter's name in a proper legal citation
●	●	●

<b>The decisions for the United States Court of Appeals for the Second Circuit appear in the</b>		
<i>New York Reporters only</i>	<i>The Bluebook</i>	<i>New York Reports and New York Supplement</i>
●	●	●

<b>Legal Digests are</b>		
never cited as a source in formal writing	always cited as a source in formal writing	enactments by legislatures
●	●	●

<b>Examples of finding tools are</b>		
constitutions	administrative decisions	legal digests and <i>Shepard's Citations</i>
●	●	●

<b><i>Defendant-Plaintiff Index</i></b> of a digest is organized		
alphabetically by listing the defendant's name last	alphabetically by listing the defendant's name first	alphabetically by listing the plaintiff's name first
●	●	●

West Publishing Co. developed the		
number codes	<i>The Bluebook</i>	Key Number System
●	●	●

<b><i>New York Jurisprudence 2d is (an)</i></b>		
<i>Index to Legal Periodicals</i>	encyclopedia	the law
●	●	●

<b><i>American Jurisprudence, Second Edition is an</i></b>		
encyclopedia that covers only state law	encyclopedia that covers only federal law	encyclopedia that covers state and federal law
●	●	●



## APPENDIX C

### STATISTICAL SIGNIFICANCE OF PRETEST AND POSTTEST RESULTS

**Comparison of Mean Gain Scores  
Results of the *t* Test for Equality of Under Each Condition  
Means:**

	<u>N</u>	Mean Gain Score	Standard Deviation		<u>t</u>	<u>df</u>	Sig. (2-tailed)	Mean Difference
First Week: Traditional	53	19.15	9.84	Week 1 Gain	-3.390	106	.001	-6.47
PLS	55	25.62	9.98					
Second Week: Traditional	53	16.47	12.81	Week 2 Gain	-2.13	106	.035	-4.94
PLS	55	21.41	11.19					

A *t* test for equality of means was used for Week 1. Results yielded a significant  $t(106) = -3.39$ ,  $p < .001$ , with the class achieving significantly better using the PLS. The Effect Size, *d*, was calculated by dividing the difference between the means by the standard deviation. The Effect Size, *d*, was .66, which indicated that the students achieved 66% of a standard deviation higher using the PLS than they did using traditional instruction.

A *t* test for equality of means was used for Week 2. Results yielded a significant  $t(106) = -2.13$ ,  $p < .035$ , with the class achieving better using the PLS. The Effect Size, *d*, was calculated by dividing the difference between the means by the standard deviation. The Effect Size was .414, which indicated that the students achieved 41% of a standard deviation higher using the PLS than they did using traditional instruction.

In both weeks 1 and 2, there were significantly higher achievement-test scores on course content taught through the PLS learning-styles strategy than on course content using traditional instruction.