

WESTERN STATE COLLEGE OF LAW
Fall 2016
Legal Writing & Research I

Professor Matt Plaxton
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- *Before the first day of class, you must enroll in the Lexis Course Web Page titled “Legal Writing & Research I – Fall 2016 – Plaxton.” I will use this web page to post material and to make class announcements throughout the semester. Please sign-up on the web page for automatic email alerts and check the web page regularly because you are responsible for all material and announcements posted on this web page.*
- *If you would like to meet with me outside of class, please email me for an appointment at plaxtonm@gmail.com*

COURSE MATERIALS

OVERVIEW

In Legal Writing & Research I (“LWR-I”), you will be introduced to legal writing, a form of writing much different than you have likely encountered previously. This semester, you will learn how to research a legal issue and how to communicate these findings by writing an objective office memorandum and an email memorandum. You will also learn to communicate your research findings and analysis verbally. Next semester, you will apply these same skills to write a settlement letter and an appellate brief, and also to prepare a persuasive oral argument.

OBJECTIVES

LWR-I introduces the following learning outcomes:

- 1) Legal Analysis;
- 2) Legal Research;
- 3) Communication;
- 4) Other Practical Skills.

DESIGN

The writing assignments in Legal Writing & Research are designed to increase in complexity and difficulty from the previous assignment. The first memo assignment provides you the opportunity to read several cases, apply the facts and rules from those cases to a client situation, and communicate those findings in an objective office memorandum. We will provide you with all necessary legal authority for this initial memo assignment, and therefore you need not complete your own research. You will also have the opportunity to communicate your legal analysis from this first memo assignment in an email memorandum. The final memorandum assignment adds the component of open research, in which you must locate and analyze all relevant legal authority and use that authority to draft a more extensive objective memorandum. You will also have the opportunity to communicate these same findings from the final memoranda assignment in an oral report.

For the first memorandum assignment, you will receive substantial assistance from your

instructor with respect to the appropriate large-scale organization and the best use of particular cases. For the final memorandum, however, you will be expected to employ the knowledge you learned in the first half of the course to perform these functions on your own.

REQUIRED TEXTS

- Teresa J. Reid Rambo & Leanne J Pflaum, Legal Writing by Design, 2d edition (Carolina Academic Press 2013)
- The Bluebook – A Uniform System of Citation, 20th edition, Harvard Law Review (2010)
- Core Grammar for Lawyers, www.coregrammarforlawyers.com. You should have received your Access Code during Orientation.

An explanation re: Core Grammar for Lawyers (CGL):

CGL is an “online, self-directed learning tool designed to help law students . . . acquire the grammar and punctuation skills that are prerequisites to successful legal writing.” You will have already taken the Pre-Test in your ILM class in the summer. During the course of the fall semester in LWR-I, you will be required to complete 24 online “Lessons,” clustered into six sections that correspond to the areas covered in the Pre-Test. Each Lesson includes an exercise. The Syllabus provides the due dates for completing each set of Lessons in bold, 2-3 weeks apart; be sure to plan ahead. This allows you to work independently and according to your own pace. While not graded, the CGL Lessons must be completed in order to pass the course and their timely completion (or failure to do so) will count toward your Professionalism grade.

RECOMMENDED TEXTS

For students who would like additional guidance, you may purchase the following texts. Copies are on reserve at the library as well:

- Richard Wydick, Plain English for Lawyers, 5th edition (Carolina Academic Press 2005)
- Amy E. Sloan, Basic Legal Research, 5th edition (Aspen 2012)

ASSIGNMENTS

In order to receive credit for this class, you must pass all assigned CGL Lessons and complete every graded and ungraded assignment in good faith. Failure to do will result in a final grade of “0” in this course. If you have any questions about the assignments, please ask your instructor. You will not use a blind grading number for any assignments in LWR-I.

FORMAT REQUIREMENTS FOR WRITING ASSIGNMENTS, BOTH GRADED AND UNGRADED

Rules for all writing assignments:

- (1) Assignments must be typewritten in black ink, double-spaced, on white, 8 ½ x 11 inch paper.
- (2) Text must be in “Times New Roman,” 12-point font.
- (3) You must use one-inch margins for the top, bottom, left, and right margins. (Note that, if using Microsoft Word, you must set the margins to one-inch each, as the right and left margins are preset at 1.25 inches.)

- (4) Each page should be numbered, in the center, at the bottom of the page, using Times New Roman font. (Note that even if the text of your document is in Times New Roman, you must affirmatively change the font of your pagination.)
- (5) Pages must NOT be right-justified.
- (6) You must print on only one side of the paper.
- (7) All papers must be bound in the upper-left hand corner with a staple.

Points will be deducted for assignments that do not conform to the Format Requirements. In addition, for consistent failure to conform to Format Requirements, points will be deducted at the end of the semester from the Professionalism grade for the course.

LATE PAPERS – GRADED ASSIGNMENTS

As a professional, you are responsible for handing in all assignments on time. A late paper is one handed in any time after it is due. Prior to the start of class, (1) all graded writing assignments must be uploaded to Safe Assign AND (2) a hard copy must be submitted.

If either the assignment is uploaded late to Safe Assign or the hard copy is submitted late, penalties are the following:

- If EITHER the assignment is uploaded late to Safe Assign OR the hard copy is submitted late, but the assignment is uploaded or submitted during the class period, the grade on the assignment is reduced by 5 points.
- If BOTH the assignment is uploaded late to Safe Assign AND the hard copy is submitted late, but the assignment is uploaded to Safe Assign and the hard copy is submitted during the class period, the grade on the assignment is reduced by 9 points.
- If EITHER the assignment is uploaded late to Safe Assign AND/OR the hard copy is submitted late, after the class period ends, the grade on the assignment is reduced by 13 points.

If you have an unforeseeable emergency involving a serious illness, an accident, or some other comparable emergency, contact your instructor as soon as possible. Traffic, printing problems, or preparation for another class do not count as an unforeseeable emergency. Your instructor, at her *sole discretion*, may extend your due date to provide you with enough time to deal with your emergency.

UNGRADED ASSIGNMENTS

In addition to the Graded Writing Assignments, in LWR-I, you must complete several Ungraded Assignments.

- Any assignment designated as an “Ungraded Assignment” on the Syllabus must be completed prior to the designated class period.
- For written Ungraded Assignments, you must bring a hard copy of each assignment to class.
- Ungraded Assignments are due prior to the start of the class period designated on the Syllabus.

- If you are absent for the class in which a written Ungraded Assignment is due, you must submit your Ungraded Assignment to your professor prior to the start of class to receive credit and avoid a grade deduction.

Out of Class Preparation:

You should expect to spend between 4-10 hours per week for out-of-class preparation. The expected out-of-class preparation time is not evenly distributed across every week of the semester; periods of more intense preparation are compensated for by less time required at other parts of the semester. Students should review the syllabus and plan accordingly, noting weeks with longer reading assignments, the due dates for the various graded and ungraded assignments, office conferences, and quizzes.

PROFESSIONALISM

In addition to the assignments noted on the syllabus, 10% of your final grade is based on Professionalism. This grade will be assigned in the sole discretion of the LWR-I professor at the end of the semester based on the student's overall professionalism demonstrated in all aspects of the course. Professionalism is distinct from compliance with the Honor Code. Professionalism includes, but is not limited to, the following:

- Timely and good faith completion of Ungraded Assignments
- Timely completion of CGL Lessons
- Regular and punctual class attendance
- Assignments which reflect thoroughness, diligence, and attention to detail
- Preparedness and constructive participation in class
- Courteousness in class and in all communications

Conversely, points will be deducted for (but are not limited to) the following breaches of professionalism:

- Tardiness
- Absences
- Incomplete, late, or sloppy work, including failure to follow Course Materials Format Requirements
- Lack of preparation or participation in class
- Failure to show courtesy to the instructor and/or peers during class or in any communications
- Inappropriate attire, such as wearing hoods or sunglasses in class
- Inappropriate use of electronic devices, such as checking email, social networking sites, or the internet during class; or failing to turn off cell phone or utilizing cell phone during class

Note that any form of videotaping, recording, or taking photos of any material from class is inappropriate without the prior approval of your instructor.

ATTENDANCE REQUIREMENT

You should attend every class. WSCL written policy for students whose class regularly meets twice per week, upon your fifth absence, you will fail this course and receive a grade of 0.0 (on the 4.0 scale). *See* Student Handbook, § 5.13. For students whose class meets once per week, if you are absent for an entire, or substantially all, of a three hour class period, you will have

accumulated two official absences. If, however, you are absent for only half of a three hour class period or a significant portion thereof, you will accumulate just one absence.

STUDENT SAMPLES

On occasion, we use anonymous samples of work from current or past students as examples. Please let your professor know in advance if you do not wish for your work to be considered as an example.

QUESTIONS?

If you have questions about the course, contact your LWR-I professor. If you have a conflict with your LWR-I professor, first try to resolve the conflict directly with your professor. If you are unable to resolve the problem, please contact the Director of Legal Writing & Research, Lori Roberts, at loroberts@wsulaw.edu, or the Assistant Director of Legal Writing & Research, Eunice Park, at epark@wsulaw.edu.

HONOR CODE: Because this is a writing course, we would like to clarify some aspects of academic honesty that are important to this class:

- (1) In all aspects of this class – including research and writing, meetings with your instructor, and class attendance – you are strictly bound by the WSCL Honor Code. Please read the Honor Code carefully so you know what it prohibits.
- (2) Unless otherwise indicated by your instructor, all work in this course must be your own. This means that you must do your own research, writing, proofreading, and revising. For both the research and writing assignments, you may not discuss the problem or your research with another law student, a professor, a lawyer, or anyone else (unless your LWR-I professor specifically indicates otherwise). If you need help drafting or revising your writing assignments, please seek assistance from your LWR-I professor.
- (3) Be careful not to plagiarize. Paraphrasing or quoting from a case or any other source without properly acknowledging the source or without including quotation marks where such marks are necessary constitutes plagiarism.
- (4) Unless specifically instructed otherwise, you may not read another student's work (including a present or past student) and you may not allow another student to read your work. You may not accept, read, or use any papers from students who have already taken this course.
- (5) Any violation of this Honor Code will result in the student receiving a "0" in the course as well as possible referral to the Honor Code Committee.

DISABILITY SERVICES STATEMENT:

Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna

Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Second Floor Students Services Suite. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Associate Dean of Students Charles Sheppard at csheppard@wsulaw.edu or (714) 459-1152. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

SYLLABUS

August 18

- Introduction to Course
- Overview of the Legal System & Sources of Law
- Introduction to Legal Reasoning
- Rule Structures & Outlining Rules

Read: (1) *Rambo*, Chapters 1, 2, 3, 4, 5 & 27; Star & Rinker Memos (Posted on Lexis Course Web Page – bring hard copies to class.)

Due: Core Grammar Sec. D/Verbs & Agreement: Lessons 1-4.

August 25

- Overview of Memo Format
- Large Scale Organization of Discussion Section (BaReAC)
- Reading & Using Cases Effectively

Read: *Rambo*, Chapters 6; 8; and Chapter 7 pgs. 137-145; Intro to the Legal Memo handout (posted on Lexis Course Web Page); First Assignment posted on Lexis Web Page.

Due: Case Brief for First Memo Assignment (UA)

September 1

- Drafting the Question Presented, Brief Answer & Statement of Facts
- Putting the Memo Together
- Drafting the Conclusion

Read: *Rambo*, Chapters 9, 10, 11 & 12

Due: Core Grammar Sec. A/Sentence Structure: Lessons 1-4.

September 8

- Citations (bring Bluebook to class) (introduction and case citations)
- Editing and Revising

Read: *Rambo*, Chapters 24, 25, 28 & 32

Watch: <https://www.youtube.com/watch?v=7jDTTFMejCY> (Intro to Citation and Bluebook)

12:14min) &

http://stream.law.georgetown.edu/librarymedia/case_citations/case_citations_player.html

(case citation 4:17min)

September 15

- Discuss other cases in closed universe
- Rule Synthesis & Analysis
- Organization of Multiple Authorities in BaReAC (Rule Explanation & Analysis with multiple authorities)

Read: *Rambo*, Chapter 7 pgs 145-154.

Due: First Draft of Closed Universe Memo (10% of final grade); Briefs due for all cases in closed universe (UA.)

September 22

- Citations (bring Bluebook to class) (statutory and secondary citation)
- Guest Speaker

Due: Core Grammar Sec. B/Quotations: Lessons 1-4.

Watch:

http://stream.law.georgetown.edu/librarymedia/statute_citations/statute_citations_player.html

Statutory citation 2:56 min)

Students must attend Bloomberg Training between September 26-September 30th

Optional: *Memo Workshop – Wednesday, September 28th from 5-6 p.m.*

September 29

- No Class – Individual Student Conferences (students must bring an outline of Discussion Section.)

Students must attend Westlaw Training between October 3-7

October 6

- Avoiding Plagiarism
- Citations Review (bring Bluebook to class)

Due: Final Draft of Closed Universe Memo (20% of final grade)

Students must attend Lexis Training between October 10-14

October 13

- Preparing an Email Memo
- Legal Research Tools

Due: Core Grammar Sec. C/Lists: Lessons 1-4.

October 20

- Legal Research Process (finding cases, statutes, & secondary sources)
- Overview of Final Memo Assignment; Discuss Research Plan for Final Memo

Watch & Read: watch video and read packet posted on the Library's Blackboard page.

Due: Email Memo Assignment Due (10%)

Optional: Complete "Library Treasure Hunt" by October 27th at 6:30 p.m. to be entered into an opportunity drawing (details at the Library Reference Desk)

October 27

- Discuss Research Results
- Large Scale Organization of Discussion Section/Organizing Multiple Authorities

Due: Students must bring six relevant authorities to class – briefs of cases or outlines/explanation of relevance of any other authorities (UA).

Optional: Citation Workshop – Tuesday, November 1st from 5-6 p.m.

November 3

- Citation Quiz (15% of final grade) (bring Bluebook to class)
- Review All Parts of the Memo

Due: Draft QP, BA, SOF and outline of Discussion (UA); Core Grammar Sec. E/Citation Manual Eccentricities: Lessons 1-4; Optional and highly recommended practice for the Citation Quiz <http://www.cali.org/lesson/561>

November 10

- Editing & Revising Workshop
- Oral communication of research findings and legal analysis

Due: Discussion Section Only of Final Memo (UA); Core Grammar Sec. F/Clarity: Lessons 1-4
Read: *Rambo*, Chapters 30 & 32.

November 17

- In-Class Oral Report to Partner (UA) (90-min class)

Due: Final Memo (35% of final grade); Core Grammar Post-Test

Argosy University

Institutional Learning Outcomes:

1. Analytical Reasoning

Analyze issues objectively, interpret and synthesize data and ideas, and develop feasible, flexible, and creative solutions to real world problems

2. Effective Communication

Identify audiences, assess information provided, interpret needs, and present relevant information using appropriate written, oral, and listening skills and media to meet the needs of the situation

3. Information Competency

Gather, evaluate, and ethically use information from a variety of relevant technological and library resources to make decisions and take action

4. Interpersonal Effectiveness

Develop individual and group interpersonal skills to improve and foster participation and interaction critical for achieving individual and group goals

5. Personal and Professional Integrity and Ethical Behavior

Demonstrate a multi dimensional awareness of individual and social responsibility to act ethically and with integrity in a diverse, global society.

6. Professional Competence

Apply skills appropriate to program objectives and employ critical reasoning to contribute to one's field and profession

Western State College of Law – Programmatic Learning Outcomes

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker's ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author's ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients' needs and goals, including a sensitivity to clients' background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.