McGEORGE SCHOOL OF LAW

J.D. & M.S.L. Students

Orientation Handbook

mcgeorge.edu

#McGeorgeOrientation #EXPERIENCEMcGEORGE
Dear Pacific McGeorge Student:

Welcome to the University of the Pacific, McGeorge School of Law. Just three years ago, I was in your shoes: having just become the 9th Dean of the Law School, I was embarking on a new and challenging adventure. Based on my experience, I know that you will find your time here richly rewarding, and I hope that you approach your legal studies with the same enthusiasm that I approached my new duties. As you begin the hard work of studying the law, keep in mind that you are joining a profession of vital importance to our society. Our goal is to help you acquire not only the cognitive skills and knowledge of the rules of law, but also professional habits of diligence and responsibility to others. When mixed with your intelligence, imagination, and the skills you will develop during your years at Pacific McGeorge, these habits will ensure that you represent your clients and serve the profession ethically, creatively, and successfully. This Orientation is the first important step in your journey toward the goal of becoming an excellent and effective legal professional.

I still remember my law school Orientation, and so I know that you have a mixture of excitement, uncertainty, and even trepidation. Because you are not sure exactly what legal education involves, we want to get you off on the right foot. Orientation has been planned to help prepare you for the full range of the law school experience. We will introduce you to the case law method of teaching, explain different learning styles, and suggest how best to prepare for your classes and exams. We will introduce you to the legal profession, how to maintain a healthy lifestyle while in law school and beyond, and what it means to be a professional who assists clients with their problems in a holistic way. Most important, during Orientation you will get to know the faculty who will become your life-long mentors and your fellow students with whom you will share the extraordinary experience of law school.

Many of you are seeking your J.D., and some of you are pursuing graduate degrees. Legal education provides many pathways to satisfying careers. We introduce themes during Orientation that will be developed during your course of study at Pacific McGeorge and will provide you with the means to succeed in a rapidly changing world. You will graduate as a legal professional, not just a legal technician.

Congratulations on beginning your journey to becoming an outstanding member of the legal profession. I am very excited about the upcoming academic year and to being a part of your journey.

With best regards,

Francis J. Mootz III
Dean and Professor of Law
SCHEDULE
# Pacific McGeorge Academic Calendar 2015-2016

**NOTE:** Students register for both the Fall and Spring semesters beginning the week of June 22, 2015.

## Fall Semester 2015 & Spring Semester 2016 Registration Dates:

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
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<tbody>
<tr>
<td>Fall Registration (Seniors, M.S.L. &amp; LL.M.) begins</td>
<td>Monday, June 22, 2015</td>
</tr>
<tr>
<td>Fall Registration (Continuing Students) begins</td>
<td>Tuesday, June 23, 2015</td>
</tr>
<tr>
<td>Spring Registration (Seniors, M.S.L. &amp; LL.M.) begins</td>
<td>Wednesday, June 24, 2015</td>
</tr>
<tr>
<td>Spring Registration (Continuing Students) begins</td>
<td>Thursday, June 25, 2015</td>
</tr>
<tr>
<td>First-Year Registration</td>
<td>Tuesday, August 11, 2015</td>
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## Fall Semester 2015

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
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<tbody>
<tr>
<td>LL.M. Orientation begins</td>
<td>Wednesday, August 5, 2015</td>
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<tr>
<td>First-Year J.D. and M.S.L. Orientation begins</td>
<td>Wednesday, August 12, 2015</td>
</tr>
<tr>
<td>First-Year J.D., M.S.L. and LL.M. Student Welcome (evening)</td>
<td>Wednesday, August 12, 2015</td>
</tr>
<tr>
<td>Regular classes begin for ALL students</td>
<td>Monday, August 17, 2015</td>
</tr>
<tr>
<td>Last day to add/drop classes without administrative approval</td>
<td>Monday, August 24, 2015</td>
</tr>
<tr>
<td>Labor Day (holiday)</td>
<td>Monday, September 7, 2015</td>
</tr>
<tr>
<td>Study Day (no classes)</td>
<td>Friday, October 9, 2015</td>
</tr>
<tr>
<td>Last day of classes (Tues. 11/24 is treated as a Friday for class purposes)</td>
<td>Tuesday, November 24, 2015</td>
</tr>
<tr>
<td>Thanksgiving Recess</td>
<td>Wednesday, Thursday, Friday, November 25 - 27, 2015</td>
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<tr>
<td>Reading Period</td>
<td>Saturday, November 28 - Tuesday, December 1, 2015</td>
</tr>
<tr>
<td>Final Examination Period</td>
<td>Wednesday, December 2 - Wednesday, December 16, 2015</td>
</tr>
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## InterSession

<table>
<thead>
<tr>
<th><strong>January 4 – January 9, 2016</strong></th>
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## Spring Semester 2016

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
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<tbody>
<tr>
<td>Classes begin</td>
<td>Monday, January 11, 2016</td>
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<tr>
<td>Martin Luther King Day (holiday)</td>
<td>Monday, January 18, 2016</td>
</tr>
<tr>
<td>Last day to add/drop classes without administrative approval</td>
<td>Tuesday, January 19, 2016</td>
</tr>
<tr>
<td>Study Day (no classes)</td>
<td>Friday, March 4, 2016</td>
</tr>
<tr>
<td>Spring Break</td>
<td>Monday, March 21 - Friday, March 25, 2016</td>
</tr>
<tr>
<td>Last day of classes (Tues., 4/26 is treated as a Friday for class purposes)</td>
<td>Tuesday, April 26, 2016</td>
</tr>
<tr>
<td>Reading Period</td>
<td>Wednesday, April 27 - Friday, April 29, 2016</td>
</tr>
<tr>
<td>Final Examination Period</td>
<td>Saturday, April 30 - Saturday, May 14, 2016</td>
</tr>
<tr>
<td>Commencement</td>
<td>Saturday, May 21, 2016</td>
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## Summer Sessions 2016

<table>
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<th>Event</th>
<th>Date</th>
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<tbody>
<tr>
<td>Summer registration begins</td>
<td>Monday, March 14, 2016</td>
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<tr>
<td>Session 1</td>
<td>Monday, May 16 – Wednesday, June 8, 2016</td>
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<tr>
<td>Session 2</td>
<td>Tuesday, June 14 – Tuesday, August 2, 2016</td>
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<tr>
<td>Fourth of July (holiday)</td>
<td>Monday, July 4, 2016</td>
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For information regarding tuition refunds, please refer to the Pacific McGeorge School of Law refund policy: [http://www.mcgeorge.edu/Future_Students/Costs_and_Aid/Tuition_and_Fees.htm](http://www.mcgeorge.edu/Future_Students/Costs_and_Aid/Tuition_and_Fees.htm)

Tuesday, November 24 is treated as a Friday for class purposes
Tuesday, April 26 is treated as a Friday for class purposes
Wednesday, August 12, 2015

**New Student Check In**
9:00 - 10:00 am | Admissions
Students receive their class schedule and section assignment, welcome materials, ID card, parking pass, and more.

**Introduction to the Legal Profession**
10:00 - 11:00 am | Classroom C
This session will explore what it means to be a lawyer and assume a professional identity in law school and beyond.

**Campus Tours with Orientation Leaders**
11:00 am - 12:00 pm | Leave from Classroom C
Upper-division students provide key information about campus, including where to find first assignments.

**Administrative Nuts & Bolts, with Mary McGuire, ’83, Dean of Students (lunch provided)**
12:00 - 1:15 pm | Classroom C
Meet Admissions, Student Affairs, Registrar, Academic Affairs, Public Safety, receive your “Black Book,” learn about your student health insurance, on-campus health services, CAPS, and more.

**Financial Aid & Debt Management Session with Joe Pinkas***
1:30 - 2:15 pm | Classroom C
*For any student receiving federal financial aid.

**Tech Orientation**
2:15 - 2:45 pm | Classroom C

**Dean’s Welcome & Oath of Professionalism**
Immediately followed by a Dessert Reception with Faculty & Students
6:00 - 7:30 pm | Lecture Hall
Join Dean Moztz, your SBA President, the Alumni Association, and the faculty for a special welcome event and reception. Federal Judge Morrison England, ’83, will administer the Oath of Professionalism. Family is welcome. Professional attire is recommended (please no jeans, shorts, or flip-flops; suits are not required).

Thursday, August 13, 2015

**Arc of Your First Semester of Law School & Learning Styles for Law Students**
9:00 - 10:30 am | Lecture Hall
Students learn what to expect from the first semester of law school — homework, class sessions, studying, and exams. Students also identify their individual learning styles and how to use them.

**Critical Reading for Law School Success**
10:45 - 11:45 pm | Lecture Hall
Students learn strategies and techniques to read critically, like a lawyer. This session will help you understand the purpose of reading cases, gain strong comprehension skills, and increase your reading efficiency.

**What I Wish I Had Known In Law School: Young Alumni Panel (Box Lunch Provided)**
12:00 - 1:30 pm | Lecture Hall
Hear sage words of wisdom from those who have been there, and done that successfully.

**How to Brief a Case**
1:45 - 3:15 pm | Lecture Hall
Students learn the purpose of case briefing, the necessary components and various formats for case briefs, and how to use case briefs to prepare for class, participate in class, prepare an outline, and prepare for exams.

**Ice Cream Social**
3:15 - 4:00 pm | McGeorge House Patio
Mix and mingle with faculty, staff, and upper-division students who have volunteered to serve as SBA mentors, while enjoying a sweet treat from a favorite local ice cream institution.

Friday, August 14, 2015

**Stress Relief Interlude**
9:00 - 9:45 am | Various Locations
Pick from an array of stress-relief activities: Yoga w/ Prof. Davies, a walk in Curtis Park w/ Dean Landsberg & Prof. Bricker, croquet on the quad w/ Prof. Sprankling, pick-up basketball refereed by Prof. Moylan, a Jam Session w/ Prof. Proske and the Music Law Society, meditation through coloring w/ the Career Development Office, or, spend the morning in the Community Garden w/ Prof. Brungess.

**Balancing Life & Law: Stress Management in Law School featuring Dr. Rob Durr**
10:00 - 11:45 am | Lecture Hall
This fun, interactive session introduces key habits to developing a sustainable, balanced approach to your legal education and career. Dr. Rob Durr, Psychologist and Lecturer at Northwestern University School of Law, will highlight common pitfalls to law student success, and then introduce simple tips and exercises to help you navigate the inherent stressors of legal education.

**Student Activities Fair & BBQ Lunch, hosted by the Office of Student Affairs & SBA**
12:00 - 1:00 pm | Quad
Mingle with upper-division students and faculty who are involved in our many chartered student organizations. From the Latino/a Law Student Association, to the Environmental Law Society, to the Yoga Club — there is something for everyone. Get information about how to join clubs, upcoming events, and ways 1L students can take on leadership roles.

**Title IX Training**
1:00 - 1:30 pm | Lecture Hall

**Mock Class: Using Your Case Brief**
1:45 - 3:00 pm | Classroom C, D, E
This session will be a mock class led by first year professors. During this class, students will have the opportunity to use the briefs they wrote for homework in a classroom setting — listing their new skills of critical reading and case briefing. Students will also receive feedback on their briefs.

**Helping the Community: Pro Bono Opportunities**
3:00 - 3:30 pm | Lecture Hall

**Get your Advocacy On: McGeorge’s 1L Competitions & Journal Opportunities**
3:30 - 4:00 pm | Lecture Hall
**Tuesday, August 11, 2015**

**New Student Check In**  
5:00 - 5:30 pm | Admissions Office  
Students receive their class schedule and section assignment, welcome materials, ID card, parking pass, and more.

**Campus Tours with Orientation Leaders**  
5:30 - 6:15 pm | Leave from the Gazebo  
Upper-division students provide key information about campus, including where to find first assignments.

**Introduction to the Legal Profession**  
(Dinner Provided)  
6:15 - 7:00 pm | Classroom D  
This session will explore what it means to be a lawyer and assume a professional identity in law school and beyond.

**Administrative Nuts & Bolts with Mary McGuire, ’83, Dean of Students**  
7:00 - 7:30 pm | Classroom D  
Meet Admissions, Student Affairs, Registrar, Academic Affairs, Public Safety, receive your “Black Book,” learn about your student health insurance, on-campus health services, CAPS, and more.

**Tech Orientation**  
7:30 - 7:45 pm | Classroom D

**Arc of Your First Semester of Law School & Learning Styles for Law Students**  
8:00 - 9:30 pm | Classroom D  
Students learn what to expect from the first semester of law school — homework, class sessions, studying, and exams. Students also identify their individual learning styles and how to use them.

**Wednesday, August 12, 2015**

**Financial Aid & Debt Management Session with Joe Pinkas (Dinner Provided)***  
5:00 - 5:45 pm | Classroom C  
*For any student receiving federal financial aid.

**Dean’s Welcome & Oath of Professionalism**  
Immediately followed by a Dessert Reception with Faculty & Fellows  
6:00 - 7:30 pm | Lecture Hall  
Join Dean Mootz, your SBA President, the Alumni Association, and the faculty for a special welcome event and reception. Federal Judge Morrison England, ’83, will administer the Oath of Professionalism. Family is welcome. Professional attire is recommended (please no jeans, shorts, or flip-flops; suits are not required).

**What I Wish I Had Known In Law School: Young Alumni Panel**  
7:45 - 9:00 pm | Classroom D  
Hear sage words of wisdom from those who have been there, done that successfully.

**Thursday, August 13, 2015**

**Informal Dinner with SBA Mentors**  
5:00 - 6:00 pm | Student Center  
Enjoy an informal dinner while mingling with upper-division students who have volunteered to serve as SBA mentors.

**Critical Reading for Law School Success & How to Brief a Case**  
6:00 - 8:00 pm | Classroom C  
This session will consist of two segments. In part one, students learn strategies and techniques to read critically, like a lawyer. This session will help you understand the purpose of reading cases, gain strong comprehension skills, and increase your reading efficiency.

In part two, students learn the purpose of case briefing, the necessary components and various formats for case briefs, and how to use case briefs to prepare for class, participate in class, prepare an outline, and prepare for exams.

**Friday, August 14, 2015**

**Informal Dinner with Student Org. Leaders**  
5:00 - 6:00 pm | Student Center  
Enjoy an informal dinner while mingling with upper-division students who are involved in our many student organizations.

**Mock Class: Using Your Case Brief**  
6:00 pm - 7:15 pm | Classroom C, D, E  
This session will be a mock class led by first year professors. During this class, students will have the opportunity to use the briefs they wrote for homework in a classroom setting — testing new skills of critical reading and case briefing. Students will also receive feedback on their briefs.

**Title IX Training**  
7:30 - 8:00 pm | Classroom C

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8:00 pm - 8:30 pm | Classroom C  
Get your Advocacy On: McGeorge’s 1L Competitions & Journal Opportunities  
8:30 pm - 9:15 pm | Classroom C
Tuesday, August 11, 2015

New Student Check In
5:00 - 5:30 pm | Admissions Office
Students receive their class schedule with first class assignment, welcome materials, ID card, parking pass, and more.

Campus Tours with Orientation Leaders
5:30 - 6:15 pm | Leave from the Gazebo
Upper-division students provide key information about campus, including where to find first assignments.

Introduction to the MSL Program
(Dinner Provided)
6:15 - 7:00 pm | Classroom E
This session will provide basic information and helpful tips about the MSL program.

Administrative Nuts & Bolts with
Mary McGuire, '83, Dean of Students
7:00 - 7:30 pm | Classroom D
Meet Admissions, Student Affairs, Registrar, Academic Affairs, Public Safety, receive your “Black Book,” learn about your student health insurance, on-campus health services, CAPS, and more.

Tech Orientation
7:30 - 7:45 pm | Classroom D

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Immediatly followed by a Dessert Reception with Faculty & Fellows
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What I Wish I Had Known In School: Young Alumni Panel
7:45 - 9:00 pm | Classroom E
Hear sage words of wisdom from those who have been there, done that successfully.

Thursday, August 13, 2015

Informal Dinner
5:00 - 6:00 pm | Library Rotunda
Enjoy an informal dinner while mingling with upper-division students.

Mock Class: Using Your Case Brief
6:00 - 7:15 pm | Classrooms C, D, E
This session will be a mock class led by first year professors. During this class, students will have the opportunity to use the briefs they wrote for homework in a classroom setting — testing their new skills of critical reading and case briefing. Students will also receive feedback on their briefs.

Title IX Training
7:30 - 8:00 pm | Classroom C

Thursday, August 13, 2015 cont., Wednesday, August 12, 2015

Balancing Life & Law: Stress Management in Law School featuring Dr. Rob Durr
8:15 - 9:30 pm | Classroom C
This fun, interactive session introduces key habits to developing a sustainable, balanced approach to your legal education and career. Dr Rob Durr, Psychologist and Lecturer at Northwestern University School of Law, will highlight common pitfalls to student success, and then introduce simple tips and exercises to help you navigate the inherent stressors of legal education.

Friday, August 14, 2015

Informal Dinner
5:00 - 6:00 pm | Library Rotunda
Enjoy an informal dinner while mingling with JD students. MSL students are welcome to bring their families.

Mock Class: Using Your Case Brief
6:00 - 7:15 pm | Classrooms C, D, E
This session will be a mock class led by first year professors. During this class, students will have the opportunity to use the briefs they wrote for homework in a classroom setting — testing their new skills of critical reading and case briefing. Students will also receive feedback on their briefs.

Title IX Training
7:30 - 8:00 pm | Classroom C
Law school can be a stressful experience and carving out time for self-care is an essential component of success. Please choose from one of the following Friday morning options, all of which will take place from 9:00 – 9:40 AM:

**Yoga Class with Professor Davies and Yoga Club**

*Location:* Student Center  
*Bring:* Yoga mat or towel  
*Wear:* Something comfortable you can move around in  
*Description:* Join a well-loved local yoga teacher, the McGeorge Yoga Club, and Professor Julie Davies for a creative morning yoga practice, integrating mind, body and spirit. Class will be suitable for all levels, including those new to yoga.

**Curtis Park Walk with Dean Landsberg and Professor Bricker**

*Location:* Meet in front of Admissions  
*Wear:* Comfortable walking shoes  
*Description:* Join Dean Dorothy Landsberg and Professor Cary Bricker for good conversation and a walk around neighboring Curtis Park.

**Croquet on the Quad with Professor Sprankling**

*Location:* Quad  
*Description:* A time-honored tradition, Professor John Sprankling will break out the croquet set for a fun croquet match on the Quad.
Pick-Up Basketball with Current Students refereed by Professor Moylan

Location: Basketball Court by the Rec. Center
Wear: Comfortable clothes and tennis shoes
Description: Get ready for the SBA’s intramural basketball season! Professor Mary-Beth Moylan will ref an informal basketball game with new and current students.

Meditation Through Coloring with Molly Stafford and the Career Development Office Team

Location: Career Development Office (Northwest Hall)
Note: The ability to draw NOT required!
Description: Join the Career Development Office team for a lighthearted morning of de-stressing with markers, crayons, and pastels. We will provide grown-up coloring sheets of all kinds including complex patterns and mandalas. Coloring stimulates brain areas related to imagination, relaxation, and creativity, and is an active form of meditation.

Jam Session with Professor Proske and the Legal Music Society

Location: Piano Lounge, 2nd Floor of Northwest Hall
Bring: A musical instrument (if you play one)
Note: The ability to play an instrument is NOT required!
Description: Join Professor Jeff Proske and students from the Legal Music Society for an impromptu jam session… who knows what the morning will bring, but one thing is certain – laughter is sure to ensue!

Morning in the Community Garden with Professor Brungess

Location: Community Garden (behind the Rec. Center/pool)
Description: Come check out the abundant Community Garden, spend the morning outside, get to know Professor Adrienne Brungess who has been involved with the McGeorge Community Garden since its inception, and learn more about opportunities to get involved this year.
I. Orientation Materials Overview

The following materials need to be read before the respective upcoming Orientation sessions. If you are attending the day sessions for Orientation, most of the readings need to be completed before Wednesday morning. If you are attending the evening sessions for Orientation, some of the readings need to be completed by Tuesday evening. Please consult the Orientation schedule to know when each session will take place and what reading needs to be completed prior to each session.

The Arc of Your First Semester and Learning Styles for Law Students ...............2

Critical Reading for Law School Success ...............................................................8

How to Brief a Case .................................................................................................15

Mock Class: Using Your Case Brief .................................................................24

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1 The majority of these materials are excerpted from Leah M. Christensen’s One L of Year: How to Maximize Your Success in Law School (Carolina Academic Press 2012), which is a required book for your Analytical Skills/Torts course.
II. Arc of Your First Semester of Law School and Learning Styles for Law Students

A. The New World of Law School: What Makes Law School So Different?

Most beginning law students have been very successful in their undergraduate careers. They have tested well in the past (on the LSAT or other exams) and they all believe they will be just as successful in law school. Even though law school is a new experience, almost all law students begin their experience believing that if they work just like they did in college, they will be equally successful in law school.

However, using the same reading and study strategies in law school that worked in college will not necessarily translate into success. Every fall semester, many first-year students struggle with reading a legal opinion for the first time. Despite their hard work and effort, many law students are left confused and frustrated. This confusion comes not because these students lack skills or intelligence, but because of the unique characteristics of law school — the high volume of complex reading coupled with a strange new teaching methodology called the Socratic Method.

The purpose of these materials is to provide you with a better understanding of how law school is unique and what to expect from your first semester.

1. The Increased Workload in Law School

You have no doubt heard tales about the amount of work expected from law students. These stories are true. You will have a great deal of reading and thinking to do in order to prepare for each of your classes. And the reading will be difficult and very time-consuming — law school reading is a whole new vocabulary and format. In your first-year courses, you will likely be assigned at least 20 pages of reading per class period — per course. You will likely have four to five courses at a time. That doesn’t sound like too much, right? Wrong. If law school reading were like the reading you’ve done before, it wouldn’t be a problem. However, legal reading, i.e., reading judicial opinions, is very time-consuming — particularly during your first semester. Consider the following scenario. Typically, each law school class is between 50–80 minutes per class period. And you will typically have two to three class periods per week in each course. And you may have up to five courses each semester. Therefore, you will likely be in class an average of 15 hours per week. A law student will spend at least three to five hours of study time for each hour she is in class. Therefore, if a student is in class 15 hours per week, the student will likely need to study 45-50 hours per week in addition to the 15 hours per week she is in class.

This means that a full-time law student begins law school with a 60 hour-per-week time commitment just for getting the basics done. For any new law student, this is a tremendous workload. And this new time commitment can be overwhelming. The good news is that you can learn to study efficiently. However, you need to begin law school with a plan. Too many students simply study for endless hours — working desperately to keep up with their classes. They think that if they can study more than their peers, they will succeed. But studying more is not always studying better. Measure the success of your studying by the quality of your reading and thinking.
Another unusual aspect of law school is the strange way that many professors teach first-year classes. It is called the “The Socratic Method.” Socrates (470–399 B.C.) was a Greek philosopher who engaged in the questioning of his students in order to uncover “truth.” He sought to get to the foundations of his students’ and colleagues’ views by asking continual questions until a contradiction was exposed, thus proving the fallacy of the initial assumption. This became known as the Socratic Method. In 1973, there was a movie called The Paper Chase in which a famous actor, John Houseman, struck fear in the hearts of all current and future law students with his portrayal of a fierce law school professor who used the Socratic Method to torment his students. Although many law professors still use the Socratic Method, they like to think of it more as a tool to engage a large group of students in a classroom discussion. The Socratic Method is supposed to be a conversation between the law professor and the law student. During this conversation, the professor and the student assist one another in finding the answers to difficult questions.

The professor will stand in the front of the room and call on a student. All students are expected to have read and briefed the case or cases before class. If you are called on, you are typically “on” for a series of questions from the professor about the case assigned for that day. The professor generally will start with basic questions such as which court wrote the opinion, the facts, the result or conclusion of the court, etc., then move to more challenging questions about the reasoning of the case or the policy that the court used to come to its conclusion. Law professors use this Socratic Method or dialogue to help you develop your analytical thinking skills.

In college, your job as a student was largely to give information back to your professor. You read the material, the professor lectured about it—you memorized it and then gave it back to your professor in the form of a test. However, in law school, law professors hope to teach you to ‘think like lawyers.’ What does this mean? It means that we want to train your brain to read judicial opinions, extract the legally relevant rules from the case, and apply those rules to new situations or hypotheticals. ‘Thinking like a lawyer’ is really asking you to become adept at text-based reasoning and this new skill involves a very precise method of reading and analysis. Most law students would be able to talk to their professor about a case they had just read if the discussion were one-on-one with their professor. But in the law school classroom, you are discussing the case in front of 75 to 100 of your law school peers. This is intimidating for any law student. Not many of us are adept initially at the skill of “thinking on our feet.” But the good news is that if you hone your analytical thinking skills, you can meet these challenges in the large class setting.

Some students tend to dislike the Socratic Method because they feel that the professor is “hiding the ball.” In other words, the professor knows what he or she wants the student to say—and will keep pressing the student until the student gives the ‘right’ answer. But the student has no idea what the professor wants her to say! So first-year law students often feel like they are being lead on a fishing expedition—except that they are the fish on the hook—and it’s very uncomfortable.
There is one additional aspect of the Socratic Method that may be very different than your previous classroom experiences prior to law school. Although law professors call their classes "lectures," they don’t typically lecture in the sense of giving you information about what the reading or assignment actually means. Instead, the professor leaves you with many different possibilities of what a case or rule might mean. This drives law students crazy! Law students want to know the right answer. But often there is no right answer. Most frequently, the answer is: “it depends.” Typically the answer depends on the arguments you can make about the rule as applied to the specific facts in front of you. If the facts change, then the outcome changes as well. So, be prepared for there not to be a “right answer” to many of your professor’s questions.

You will get to experience this on Friday during Orientation where you will attend and participate in a mock class.

### 3. Professors Aren’t All That Important in Law School. YOU Are Ultimately Responsible for Your Own Learning!

Despite the fact that the classroom environment in law school may be challenging, the good news is that your law school professors are only a small part of your overall learning experience. Now I’m sure you’re asking: “Why am I paying all this money for law school if the professors aren’t really teaching me anything?” One of the biggest mistakes students make in their first semester of law school is assuming that their professors will teach them everything they need to know to become good lawyers. And most first-year law students believe they are in law school to learn the “law.” Students are surprised that the focus of law school classes is not really on the substantive rules of law— particularly during the first year. Yes, you will certainly learn the rules of Civil Procedure and discuss basic rules of law in Property. You will also learn a basic legal vocabulary and analytical framework in your courses. And some of your professors will also teach you some important lawyering skills that you can apply to the actual work you will do eventually as a lawyer. Although your professors will introduce you to cases, rules and skills, you will actually learn the details of each of those things on your own.

There is a lot of learning that goes on in law school outside of the classroom. And my main point is this: ultimately, you are responsible for your own learning. So one of your main tasks in the first few weeks of law school is to determine how you learn most effectively.

Quite simply, law school seeks to help you become a legal thinker, one who is largely self-taught. And in order to teach yourself the law well, you need to know how you learn and retain information most effectively.

**B. Succeeding in Law School by Knowing How You Learn Best: What Is Your Individual Learning Style?**

Each of us has a different learning style (or a combination of learning styles). A “learning style” refers to how someone processes and retains new and difficult information. There is no single right way to learn— there are only different ways to learn. Law students need to become expert learners. In other words, not only do you need to know how to learn generally, but you also need to know how you “personally learn best” and how you “prefer to learn.”
All law students will have different learning preferences—different students will prefer some methods of learning over others. An important point, however, is that law school tends to favor some learning styles over others. For example, a student who learns best by listening to her law professor lecture may find law school classes more meaningful than a student who prefers to see the concepts on PowerPoint slides or graphs. The most common approach in law school teaching is the lecture format, combined with the Socratic Method. However, this method of teaching does not always work well for every law student because not all students learn effectively within this lecture format. Therefore, in order to maximize your learning in law school, you need to begin by understanding more about your personal learning style.

1. The Basic Learning Styles

Your learning style refers to the way in which you like to approach new information. Each of us processes information in our own way, although we may share some learning patterns, preferences, and approaches. There are four basic learning styles but most of us use a combination of more than one.

**Visual Learners.** These students tend to be more right-brain, holistic learners who absorb information as a whole, rather than in parts, and who process information best when it is presented using pictures and diagrams. Students who are visual learners tend to learn most effectively by using visual aids because they remember best what they read or see.

**Auditory Learners.** These students tend to work best when they ‘talk out’ their ideas. In addition, these students develop their ideas or process information by participating in class discussions. Further, many students find that they learn effectively when they walk around their apartments or study rooms ‘talking’ out difficult concepts. These students might also learn best by listening to lectures, class discussions, study group discussions, or tapes.

**Read/Write Learners.** These students absorb information most effectively through written text. Emphasis is placed on the written word in all forms whether it be reading or writing. Students who are read/write learners tend need to read all materials and may want to consider handwriting their briefs and class notes.

**Kinesthetic/Tactile Learners.** These students tend to learn material by touching and experiencing what they need to absorb. In the law school environment, these students tend to learn most effectively by writing and taking good notes, and through “learning by doing,” which might include role-playing, simulations, clinical experiences, or hands-on research exercises.

The main point of this discussion is for you to recognize that there are many different ways in which we learn. One key to academic success in law school is to understand your individual learning preferences so that you can maximize your learning in law school.
2. Applying Your Learning Style to Law School

In an ideal world, your professors in each of your law school classes would adapt their teaching styles to meet as many diverse learning styles as possible. However, you should be prepared to have several classes where your professor teaches in a way that does not necessarily meet your individual learning needs. Therefore, you must be prepared to take on some of the responsibility for your own learning in law school by knowing how you learn best. This is called “meta-cognition” and this involves “self-regulation of cognitive activities through monitoring and making appropriate adjustments” in one’s learning. In other words, you need to teach yourself how to learn.

If you know your individual learning style, you can adjust your approach to classroom learning and studying as you need to (depending on your professor). You can also challenge yourself to become more adept at learning in different ways, thereby becoming a more successful independent learner. For example, if you are a read/write learner, you probably will learn by reading your casebook and supplementary materials. If you are a visual learner, you will likely want to supplement your learning in the regular classroom by creating charts or other visual aids. You may make detailed, color-coded outlines or use other visual cues to assist your learning. If you are an auditory learner, you may feel comfortable engaging in class discussions. You may also like to read aloud or become involved in several study groups so you can talk over the concepts in detail. You will probably enjoy the lecture format of the law school classroom and would benefit from audio study aids. Finally, if you are a kinesthetic or tactile learner, you may find yourself taking notes or using index cards, using a highlighter to mark passages that are meaningful to you, walk around as you read so that you are both mentally and physically engaged in the learning task, creating your own essay and multiple-choice questions. You may also find that you love law school most when you are working in a clinical program or engaged in experiential learning.

Remember that law school learning requires more than just memorization skills that may have worked for you before. You need to become more involved in your learning—devising a study plan that utilizes your learning strengths.

Finally, knowing one’s learning style is also integral to your ability to process the large volumes of information that you must digest in law school. Keep in mind that some courses give law professors more opportunities than others to meet the learning styles of their students, and often class size is an important factor in the number of active, experiential activities that will occur in a class. For example, you may find that you thrive in your Legal Research and Writing course. These types of smaller classes that focus on learning skills (research and writing) in combination with substantive law can give professors more opportunities to teach to diverse learning styles. In addition, these types of classes often give law students the opportunity to learn in a variety of ways, such that the learning style of almost every student can be satisfied in these classes. For this reason, students who struggle in the more traditional law school classes might excel in these types of hands-on, skills classes.

As you begin your first semester of law school, determine your specific learning style(s). Consider which classes seem easier for you and which ones feel more challenging. For those
classes that are more challenging, consider how you will supplement your learning in those classes. Perhaps you can buy audio lectures. Or maybe you can create note cards for each rule and diagram the rule with different colors. Perhaps you will create flowcharts to help you organize the information in a class. The key is to begin early and to have a plan for using your learning style to maximize your academic success.

We will complete a learning styles evaluation during our Orientation session on learning styles.
III. Critical Reading for Law School Success

A. Legal Reading: The Key to Law School Success

The purpose for reading in law school is very different than in undergraduate courses. As an undergraduate, students often read to master specific content and then are required to demonstrate that they have learned that content in tests, papers, and exams. In law school, students read cases so that they can solve legal problems. When reading cases in law school, it may not be important to be able to memorize the specific date of a decision or the specific location of a crime or the specific name of the person who entered into a contract. However, it is important to understand the key facts in the case and the elements of a rule of law so that the rule of law can be applied to solve a new legal problem. In short, students need to read cases to understand key rules and to learn how to apply rules to a new set of facts, not simply to acquire facts. It is important to keep this distinction in mind as you read cases for class or writing assignments. Since the purpose of reading a case is to be able to solve a new legal problem, good legal readers will often think about alternative facts or the legal problem at hand as they read. It may help to remember that people come to lawyers to get assistance in solving a problem. They come to lawyers with facts – they have been evicted, arrested, fired from a job. A lawyer’s job is to figure out what legal principles can solve these problems. Lawyers must always read cases to understand legal principles and then apply these principles to the problem faced by their client. Reading in law school is no different.

Through research, law professors have learned the importance of how law students read judicial opinions. The most successful law students read cases differently than law students who tend to struggle during their first year. In an empirical study on legal reading, it was discovered that law students in the top 50% of their class read cases very differently than law students in the bottom 50% of their class. Thus, legal reading is one of the most important skills to master in law school.

B. Legal Reading and Law School Success

You will spend thousands of hours in law school reading judicial opinions. Yet rarely will your law professors discuss how you should approach legal reading. Instead, law professors will assume that you are an excellent reader because you have obviously been successful as a student before getting into law school. However, legal reading is a particularly challenging task. In order for you to fully comprehend legal text, you need knowledge of legal terminology and an understanding of both case structure and legal theory. One of my favorite quotes about legal reading comes from Scott Turow describing his first year at Harvard Law School. He compared reading cases to “something like stirring concrete with my eyelashes.”

Although many law students adapt quickly to legal reading, other students struggle with legal reading throughout law school. Sometimes struggling students simply take longer to read

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2 The materials contained in this section come from the following sources: Leah M. Christensen’s One L of Year: How to Maximize Your Success in Law School (Carolina Academic Press 2012); Ruth Ann McKinney, Reading Like a Lawyer (2012); Leah M. Christensen, Legal Reading and Success in Law School: An Empirical Study, 30 Seattle U.L. Rev. 603 (2007); Jane Bloom Grise, Critical Reading and Legal Writing (Presentation Dec. 6, 2014; Fourth Colonial Frontier Legal Writing Conference).
through the dense material found in a typical law school case. Other students read the cases quickly but they fail to take out of the case what the professor sees as the most important material or essence of the case. Others assume that because they have been reading most of their lives, legal reading is no different and they become frustrated when they struggle with it. Every law student can learn to be an effective legal reader. But like any other skill, you will need to practice how to read a legal case.

Before you can improve your reading skills, however, you need to understand what happens in good readers’ minds while they read. You probably do many of these things already. Good readers have developed habits when they read. We call these habits “strategies.” Reading strategies help legal readers understand, connect to, and determine the importance of what they are reading. There are three main types of reading strategies: (1) default reading strategies; (2) problematizing reading strategies; and (3) rhetorical reading strategies. We will discuss these strategies in more detail during our session on Critical Reading, however, below is a basic description of each:

**Default Reading Strategies:** these are the basic strategies that any of us use to move through legal text, including paraphrasing, rereading, making notes, underlining, highlighting, and writing notes in the margin. Beginning legal readers rely heavily on these default reading strategies because they are familiar. However, default reading strategies alone are not enough; they do not encourage interaction with the material and they do not engage the reader with the material at the level needed to be a good legal reader.

**Problematizing Reading Strategies:** these are more sophisticated techniques used to help readers solve problems within the text. They ask themselves questions, make predictions, and hypothesize about developing a meaning of what they read. Studies have shown that problematizing reading strategies are associated with high performing students. Those students talk back to the text, make predictions when they read, hypothesize about the meaning of what they just read, and connect the reading with the overall purpose of the reading. In other words, they interacted and engaged with the material. These are the types of reading strategies you should aim to master while in law school.

**Rhetorical Reading Strategies:** these strategies are the most sophisticated of the reading strategies and are most associated with high performing law students. These strategies are evaluative – the reader takes a step beyond the text itself and thinks deeply about the author’s purpose, the context, and the effect on the audience. The reader also tries to connect the text with personal knowledge or personal experience. These also are the types of reading strategies you should aim to master while in law school.

One of the most useful techniques employed by good readers (and to help you move from default reading strategies to problematizing and rhetorical reading strategies) is also the easiest to master. Research studies have all found that students perform better in law school when they take on the role of an attorney or judge as they read judicial opinions. These studies compared the law school performance of students who prepared simply by reading opinions for class with students who pretended that they were one of the lawyers in the case or the judge as they read each
opinion. Students who took on the role of advocate or judge consistently outperformed the students who simply read the cases. When students read as advocates, they look at the facts more carefully, and become more engaged in their reading because they cared about the result. This leads to a more thorough and nuanced understanding of the underlying legal arguments, holdings, and policy considerations.

Another way to move from default reading strategies to rhetorical reading strategies is to follow a before, during, and after approach to reading.

**Before You Read**

Before you read a case, you need to understand the purpose and the context for your reading. In law school, your professors are training you to be lawyers. So, you should learn to read like a lawyer from the very beginning. Typically, when law students read cases, they do so because the cases are assigned as homework, they want to be prepared for class, and they are motivated by fear of being called on in class. However, that is not why lawyers read cases. Lawyers read cases because they have clients and their clients have a problem that needs to be solved. Thus, before every case you read, you need to tell yourself, “I am a practicing attorney and I am reading the case to prepare for a client who has a case that is similar to the case I am reading.” In other words, you are reading with a purpose and with a problem-solving mindset.

In addition to reading with a purpose, you must also have context for what you are reading - do not read a case without first understanding why you are reading it. Try to predict why the casebook author included it in a particular section of your case book, predict why your professor assigned it, and develop a hypothesis about the case.

**While You Read**

While you read a case, you need to become engaged with the material and not just read it to get it over with. Focus on your purpose for reading the case, the context in which the case is presented, and your hypothesis for the case. Then while you are reading literally ‘talk-back’ to the case – question why the judge did something, evaluate the purpose of a particular law, visualize the facts in living color, and constantly re-evaluate your hypothesis. Additionally, if you get stuck when reading or have a question, resolve the confusion or the question before you move on. You may need to go back, reread the text, look up a word in a legal dictionary, or ask for help. But, the key is that you must resolve your confusion before moving on.

**After You Read**

After you read a case, you need to evaluate what you have read and how it fits into the purpose for reading the case, the context in which the case is presented, and its role in the big picture. Think about the broader policy considerations or big-picture rationales. Also, think about your opinion of the case – Do you agree with the decision? Why or why not? Would you have ruled the same way? Why or why not? Does the case present any social or ethical problems?
During our Orientation session on Critical Reading, you will be provided with a sample reading checklist for you to use to help you master the skill of critical reading. I strongly suggest that you fill out this checklist for each case you are assigned during the first couple of weeks of law school. After this process has become second-nature, you no longer need to complete the checklist separately, but simply incorporate it into your note-taking and briefing process.

**C. Overview of the U.S. Legal System**

To help you determine the overall context of cases before and as you read, you need to have a basic understanding of the legal system in the United States. Most students come to law school with at least a rudimentary idea of how the U.S. legal system operates, even if it is based solely on movies and television shows. There is more, however, to the law than what appears on the screen. The law is part of the society in which we live, and it both reflects and molds our society. Therefore, in order to practice effectively in the U.S., law students need to understand the structure and sources of domestic law. The legal system of the United States is the common law system. It is based on precedents established in judicial opinions written by judges, who are the creators of much of the law you study in the first year of law school. Common law countries have statutes as well; but the defining characteristic of a common law system is the importance of judicial decisions, both in creating law and in interpreting statutory law. The newly-created law and interpretations of statutes by judges become part of the law.

The U.S. legal system is actually two legal systems, that of the federal government and that of each of the constituent states. Each of these systems has the same sources of law: a constitution, statutes enacted by legislatures, regulations developed by executive agencies, and cases decided by courts. The four sources are listed here in the hierarchical order of their importance. Thus, a constitution is the ultimate source of law, and no statute or case can override a constitution. A statute is law enacted by the legislature that is binding on all courts in that jurisdiction. While a court can declare a statute unconstitutional, it cannot rewrite a statute and must apply a statute as the legislature enacted it. Administrative regulations come from the executive branch of government and have the force and effect of statutes so long as they have been created in accordance with the powers granted to the agency by the legislature. Finally, case law comes from the judicial branch. Despite the emphasis on reading cases in the first year of law school, case law is at the bottom of the hierarchy, and any law created by a judicial decision can be changed or eliminated by the enactment of a statute.

Because judicial decisions are fundamental to the U.S. common law system, the first place to look to understand that system is the similar judicial structures of the federal and state governments. These structures are arranged hierarchically, with numerous trial courts at the bottom of the hierarchy, several intermediate appellate courts in the middle (in systems with intermediate appellate courts), and one appellate court of last resort at the top. Losing litigants have the right to one appeal of an adverse decision, usually to the intermediate appellate court, but it can be to the highest court if there is no intermediate court. If the system includes intermediate appellate courts, litigants who lose in that level

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3 The materials contained in this section comes from *Global Lawyering Skills* by Mary-Beth Moylan and Stephanie Thompson, Chapter 2 written by Hether Macfarlane (West 2013).
of court have no right to appeal to the highest court but must instead ask the court's permission to appeal.

**The Federal Judicial Structure**

The Courts of Appeal in the federal system are generally referred to as "circuits." Eleven of them are numbered (one through eleven); the other two are named as the District of Columbia Circuit and the Federal Circuit. District courts, the trial courts in the federal system, are named geographically as, for example, the U.S. District Court for the District of Massachusetts, if there is only one district in a particular state, or the U.S. District Court for the Eastern District of California if there is more than one district in a state. Decisions of a particular U.S. District Court are appealed to the Circuit Court of Appeal that covers the geographic district in which that trial court sits. Decisions of all of the circuits may be appealed to the U.S. Supreme Court.
Sample State Judicial Structures

State court systems are generally structured the same way as the federal court system. Decisions of trial courts in the states are appealed to the intermediate court whose geographical jurisdiction includes the location of that trial court. Decisions of intermediate appellate courts are in turn appealed to the highest court in the state. Eight states do not have any intermediate appellate courts. Delaware, New Hampshire, and South Dakota are examples of states without intermediate appellate courts. In these states, losing litigants in the trial courts have the right to appeal to the state's highest court.

It is important to think about these two separate judicial systems as sitting side by side rather than as the federal system sitting above the state systems. Each system is primarily responsible for cases where the applicable law comes from the government of which the court is the judicial branch. Thus, state courts decide cases primarily involving state law, and federal courts decide cases primarily involving federal law. Judicial decisions based on the law of that court's jurisdiction can and do create law in that jurisdiction. Thus, federal judges may create law for the federal system, and state court judges may create law for their state. That is the essence of a common law system.

But one of the hallmarks of any legal system should be predictability: people need to be able to predict the legal effect of their actions or there is no real legal system. Common law systems create this predictability through the doctrine of *stare decisis*, a Latin phrase meaning to stay with what has been decided. Under this doctrine, in most circumstances a court should decide similar cases with similar facts in the same way. On the other hand, if the court believes the old rule is not workable, that the rule may be changed without inflicting a significant hardship on those who have relied on it, that related principles have developed to the point where the old rule no longer has any real substance, or that the facts have changed so much or come to be viewed so differently by society that the old rule is no longer justified, the court may refuse to stand by its previous decision, thereby keeping the law from becoming set in stone and out of touch with the larger society.
Closely related to the concept of *stare decisis* is the doctrine of precedent. Indeed, the two terms are often used interchangeably. According to the doctrine of precedent, lower courts are required to follow the precedents of the courts above them in the hierarchical structure discussed above. But, precedent is a vertical concept; decisions of courts at the same level as the court considering a case or at a lower level cannot create law for that court.
IV. How to Brief a Case

A. The Importance of Briefing Cases

What is a case brief? A case brief is your written summary of the facts, issue, rule, analysis/reasoning, holding, and the conclusion/result of the case that you have read. This is where you translate your critical reading skills into written form. Case briefs help you preserve your thoughts and observations as you begin to organize the content of the cases your read.

Why brief cases? Briefing allows you to participate fully in the classroom experience, to navigate through the class discussion, and to be prepared to discuss the particulars of an assigned case in detail. Specifically, briefing helps you in at least five ways:

1. Briefing clarifies your understanding of the case by breaking the case into its component parts.

2. Briefs are indispensable in class for answering questions and tracking discussion. Professors often call on students to recite part or all of their briefs. Even if the professor does not ask you to “brief” the case, having a brief at your fingertips gives you the information you need to answer questions and follow the discussion.

3. Briefs you create over the course of the semester contribute to your global understanding of the course – the “big picture.”

4. Briefs become vital components of the course outline you will compile as you study for final examinations.

5. Briefing cases will help you develop critical reading, legal analysis, and writing skills: skills you will use throughout your legal career.

Briefing is quite difficult at first. Over time, it becomes easier. As it becomes easier, you will know that you are developing your legal skills. These skills are essential to realizing your potential as a law student and a lawyer. Thus, preparing untold numbers of written briefs can be the single most important learning tool available to you.

B. Case Brief Components

Your case briefs are your own personal study tools and your case briefs should be customized to your own learning style (visual, auditory, read/write, kinesthetic). That being said, you should know that case briefing is based in part on a formula for legal analysis called IRAC. IRAC is a formula you will use to formulate legal analysis on exams and papers in law school and in the practice of law. IRAC is an acronym for Issue, Rule, Analysis, and Conclusion.
The I in IRAC stands for Issue. This part of the formula identifies the questions or legal issues raised by a hypothetical, a fact pattern, or a client’s problem you are hired to solve. In the context of case briefing, this is the issue before the court for evaluation.

The R in the IRAC stands for the Rule. When reading cases, your job is to determine the rule or rules that govern the court’s decision – what rule or rules did the court rely upon to reach its decision. You will then want to write a succinct, clear rule of the precise law that you determined governs the court’s decision.

The A in the IRAC stands for the Analysis of the issue and this is often the most important part of the formula. In the context of case briefing, you will be looking for the court’s reasoning - how did the court apply the rule to the facts of the case, why did the court decide the case the way it did? When using IRAC to write an exam answer, you will be providing the analysis – you will explain how a rule applies to particular hypothetical and why the outcome you predict is supported. But, in the A section of a case brief, you need to describe how the court argues and supports its position for the legal issues raised by the parties.

The C in the IRAC stands for the Conclusion. The Conclusion is the wrap-up where you will resolve the issues or answer the questions you have raised. In the context of case briefing, the Conclusion typically is the disposition of the court – the conclusion of the court, the court’s ruling, the outcome. What was the court’s final decision? Did it go with one party over the other? What happened to the case? Was it dismissed? Affirmed? Try to figure out both the procedural conclusion and the substantive conclusion.

This explanation for the IRAC legal analysis formula should help you better understand how to create a case brief. The main purpose for reading a case is to use it to solve a new hypothetical. Thus, if you already are thinking about IRAC and applying rules you derived from cases to possible hypotheticals when you are critically reading a case and briefing a case, you already are ahead.

The traditional case brief essentially follows the IRAC formula with the addition of the relevant facts from the case you are briefing. This formula is called FIRAC: Facts (+ procedural posture of the case), Issue, Rule, Analysis (reasoning and holding), and Conclusion. It also includes a section for Concurring and Dissenting Opinions, if applicable, and your evaluation and critique of the case.
**Case Name (e.g. Patty v. Smitty)**  
**Citation (e.g. 500 U.S. 100 (1987))**

**Facts:** Summarize the facts of the case. Focus on the facts that you need to understand the holding and reasoning of the case. What facts did the court rely in its reasoning/analysis?

**Procedural History:** Most of the cases you will read in law school will be appellate decisions. In this section, list what happened in the lower court(s). This does not require a lot of detail but you do need to understand how the case came to the appellate court.

**Issue(s):** What is/are the legal question(s) facing the court? This may be a substantive issue, a procedural issue, or both. Frequently the issue before the court is stated within the initial paragraphs of the opinion. When an issue is written in a case brief, it typically is written as a question or as a statement beginning with the word “whether.”

**Rule(s):** This is where you will provide the rule or rules that govern the court’s decision – what rules did the court rely on when providing its analysis? In your brief, you will want to write a succinct statement of the rule – do not just copy and paste the rule the court includes.

**Analysis** (this is made up of the holding and the reasoning of the court)

  **Reasoning:** This is the most important section of your case brief. Here you want to list in detail the reasoning the court used in reaching its decision – explain why the court ruled the way it did. While you want to be detailed in this section, do not simply rewrite the opinion. Restate the reasoning in your own words. List what the law was before the case was decided and how the law was changed after this decision. **Law professors tend to focus most on the reasoning of a case during case discussions.**

  **Holding:** How did the court answer the issue? This tends to be written as an answer to the issue if you wrote the issue as a question. If so, answer this with a yes or no and then provide a very short statement as to why the court held that way. If you are not answering a question, then write it as a short sentence as to why the court held the way it did.

**Conclusion (Disposition):** This is where you will state the outcome of the case. What was the court’s final decision? Did it go with one party over the other? What happened to the case? Was it dismissed? Affirmed? Reversed and Remanded? Try to figure out both the procedural conclusion and the substantive conclusion.

**Concurring/Dissenting Opinions (if applicable):** Concurring and dissenting opinions sometimes are included in your case book. A concurring opinion is a written opinion by one or more judges who voted with and agrees with the majority on the outcome of a case but states different reasons for their decisions. A dissenting opinion is a written opinion by one or more judges who voted against the majority and states the reasons for their disagreement with the majority opinion. In
this section of your brief, make a note as to the basic arguments of any concurring/dissenting opinions, but this section should be fairly short.

**Evaluation/Critique of the Case:** This is where you include your opinion of the case. Would you have reached the same conclusion? Why or why not? What do you agree or disagree with? Why? Are there any social or ethical questions raised by this decision? Anything you find strange about the opinion? This information should come from your critical reading of the case and use of the higher level reading strategies.

Below is a Sample Brief with the categories discussed above. The complete case as it would exist in your casebook is provided after the brief for your review— you should read both to see the type of information extracted from the case to create the brief.

Keep in mind that the sample below is just one way to write a case brief. You should use your own learning style to create a case brief that is effective for you. For example, if you are a read/write or a kinesthetic/tactile learner, you likely will use the template as provided above but consider hand-writing your brief instead of typing it. If you are a visual learner, you will want to use the same categories but put them in a flow chart or other visual diagram. If you are an auditory learner, you may want to take some basic notes so you have something to refer to in class, but record yourself talking out the case brief components.

**Sample Brief for People v. Ravenscroft**

198 Cal. App. 3d 639 (Cal. Appellate Court 1988)

**Facts:** Ravenscroft stole friend's ATM card and used it to w/draw $ on two occasions at ATM machine on banks' exterior wall. Inserted stolen ATM card into two ATM machines to withdraw funds from account. ATM mounted inside the bank and secured flush with the exterior walls of the bank.

**Procedural History:** Convicted of second degree burglary at trial court.

**Issues:** Whether the insertion of a stolen ATM card in an ATM, mounted inside the banks and secured flush w/ the exterior walls of those banks, constitutes a sufficient entry of a building to support a burglary conviction.

1) Whether ATM attached to bank's wall is building

2) Whether placing ATM card into ATM slot constitutes entry
Rules:

A building under the burglary statute (CA Penal Code 459) includes anything firmly affixed and attached to a building that is under the building's roof. If the building is completely open on one side, then it is not a building under 459.

The slightest partial entry of any kind by anything designed to facilitate entry is enough. This can be done with an instrument or tool. Actual physical entry into the building is not necessary.

Analysis: California statute defines burglary broadly -- requiring intent, entry, and building. Legislative intent for broad definition of the crime.

Reasoning:

Building: D argued no building because an ATM is open on one side. Relied on Gibbons where storage bin open on one side was determined not to be a building. Ct. relies on Franco & Jackson for proposition that where it is under a building's roof and affixed to the building, you have a structure that constitutes a building. It is part of the bank’s wall so it is part of the structure – a slot to insert an ATM card is not enough to make it open

Entry: D argued no entry because only had ATM card go into machine -- did not violate bank's airspace and wasn't under D's control while in ATM. Court rejects noting entry can be committed by partial entry of any kind. Relies on Walters and Osegueda where D's use of burglar tools enough for entry. Court states that anything used to facilitate entry is enough to be partial entry. Analogizes to fed. case - - Gaudy (D places check into drive-up window = entry) -- for broad definition of entry.

Holding: Inserting an ATM card into an ATM which is mounted inside a bank and secured flush with the exterior walls of the bank is a sufficient entry of a building to support a conviction for burglary.

Conclusion: Judgment affirmed – conviction of second degree burglary upheld.

Evaluation/Critique: For the issue of burglary, the court seems to want to extend the definition of building to include the ATM machine. It seems to depend on whether the building is open on one side and whether it is covered by the roof. What if it was just outside the store without a roof? Would it then be a lesser crime than burglary? From a policy perspective, it does not seem to make sense that theft of a shoe, for example, in a display case under a building that happens to have a roof is burglary but theft of a shoe that is in a display case that doesn’t have a roof that
extends to cover it is not burglary but a different crime. On the issue of entry, I agree that inserting the card into the ATM machine is an entry because something actually enters the building, even if it is just a tool. And, the holding about entry in this case it makes sense based on the other cases – burglar’s tools. But, I disagree with the idea behind the other cases (even though I have not read them). How do tools that help create access to a building equate to entry? It seems like the court is saying in those cases that anything that can facilitate entry also can be used to establish entry. To me, that takes the statute too far.

Below is the complete case, which was briefed above, as it would appear in a casebook:

The PEOPLE, Plaintiff and Respondent

v.

William Martin Ravenscroft, Defendant and Appellant

Court of Appeals of California, Second Appellate District


STONE, Presiding Justice.

[T]he court below convicted William Martin Ravenscroft of three counts of second degree burglary, among other crimes. Ravenscroft committed the burglaries by surreptitiously stealing and inserting the automatic teller machine (ATM) card of his traveling companion, Barbara Ann Lewis, in two ATM's and punching in her personal identification number, which he had previously noted, on the ATM keypads in order to withdraw funds from her account.

The sole issue on appeal is whether his insertion of Lewis's ATM card in the ATM's, mounted inside the banks and secured flush with the exterior walls of those banks, constitutes a sufficient entry of a building to support a conviction for burglary. We hold that it does and affirm the conviction.

DISCUSSION

It appears that this is a case of first impression. We are called upon to examine the scope of the terms "building" and "entry," for the purpose of California Penal Code section 459, which defines the crime of burglary in this state. Penal Code section 459 states that "[e]very] person who enters any . . . shop, . . . store, . . . or other building, . . . with intent to commit grand or petit larceny or any felony is guilty of burglary."

The enactment of Penal Code section 459 in 1872 marked the beginning of the liberalization of proof required to obtain a conviction for burglary. At common law, before 1850, conviction for burglary required proof of the breaking and entering of a dwelling house
of another in the nighttime with the intent to commit a felony therein. (See Comment, Criminal Law -- Development of the Law of Burglary in California (1951) 25 So. Cal. L. Rev. 75 (hereafter Law of Burglary).) The enactment of Penal Code section 459, and subsequent amendments thereto, eliminated the need to prove all of the common law elements except entry into a building or other structure with larcenous intent. (See Law of Burglary, supra, at pp. 75-76.) Today, the essential definition of this crime in California is an unlawful entry into a building or other structure. (Id., at p. 76.) The meaning of these remaining elements has been broadly construed by the courts.

The requirement of entry into a building or structure

Ravenscroft contends the ATM's he used are not buildings and therefore cannot be the subject of a burglary. He argues they are merely machines which are not enclosed on all four sides and which do not have a roof. He points to People v. Gibbons, (1928) 206 Cal. 112 [273 P. 32], as authority for this argument. Gibbons is not persuasive.

In Gibbons, the defendant took some aluminum from a storage bin which was completely open on one side. The open side faced a fenced yard. (People v. Gibbons, supra, 206 Cal. at p. 113.) Even though "... in this state the statutory definition of burglary is much more comprehensive than ... at common law ...", the majority held that this bin did not come within the purview of Penal Code section 459. (Id., at pp. 113-114.)

The Gibbons court contrasted that open storage bin with the burglary of a shoe store showcase in People v. Franco, (1926) 79 Cal. App. 682 [250 P. 698]. In Franco, the defendant broke into a shoe store showcase which lined the walls and sides of an open staircase which led from the sidewalk towards the store entrance. This showcase was outside the store proper and one could not enter it from inside the store. (Id., at p. 684.) The court deemed the entry into the showcase sufficient to support the burglary conviction since the showcase was under the roof of the shoe store and was therefore, in legal effect, a part of the store. (Ibid.; see also People v. Jackson, (1933) 131 Cal. App. 605, 606-607 [21 P.2d 968], in accord, involving a showcase inside of and attached to the building in which it was housed.)

These ATM's are analogous to the showcases in Franco and Jackson. They are firmly affixed and attached to the inside of the bank and are covered by the roofs of the banks. The fact that ATM panels contain slots for ATM cards does not render them completely open on one side, like an open storage bin. (See People v. Gibbons, supra, 206 Cal. 112.) This ATM panel constitutes a part of the wall of the bank, forming an enclosure far more impervious to entry than structures like telephone booths, which also may be the subject of a burglary. (See People v. Miller, (1950) 95 Cal. App.2d 631, 634 [213 P.2d 534]; People v. Brooks, (1982) 133 Cal. App.3d 200, 204-206 [183 Cal. Rptr.773], and cases listed therein.)
The requirement of an entry

Ravenscroft further contends that although his insertion of an ATM card into these ATM's activated the process of obtaining money, it does not constitute an entry under Penal Code section 459 since he did not violate the air space of the bank buildings and because he had no control over the card while it was in the machines. We disagree.

The insertion of an ATM card to effectuate larcenous intent is no less an entry into the air space of a bank as would be the use of any other tool or instrument. Although the California Penal Code does not define "entry" for the purpose of burglary, the California courts have found that a burglary is complete upon the slightest partial entry of any kind, with the requisite intent, even if the intended larceny is neither committed nor even attempted. (People v. Walters, (1967) 249 Cal. App. 2d 547, 550-551, [57 Cal. Rptr. 484]; People v. Osegueda, (1984) 163 Cal. App. 3d Supp. 25, 31-32 [210 Cal. Rptr. 182]; also see 3 Wharton's Criminal Law (14th ed. 1980) * 334, p. 205.) By pushing Lewis's card into an ATM's slot, the defendant completed the crime. Further control of the card is unnecessary.

Ravenscroft argues that Walters and Osegueda, supra, should not apply to this case since they involve more traditional violations of air space with more traditional burglars' tools. In Walters, the police caught the defendants perched on the roof of a market next to a vent shaft whose lid had been pried off. The vent covered a shaft leading to a grille which was flush with the ceiling of the market's restroom. Various paraphernalia such as pliers, screwdrivers, a crowbar and rope were strewn about. (People v. Walters, supra, 249 Cal. App. 2d at p. 550.)

Similarly, in Osegueda, the police interrupted the defendants' efforts to bore a hole in the wall of an electronics store after they had removed a section of an outer wall to a café bathroom. A hole saw, hacksaw and a crowbar were nearby (People v. Osegueda, supra, 163 Cal. App. 3d at Supp. p. 31.)

The fact that both Walters and Osegueda involve more traditional methods of burglary is of no moment. The gravamen of burglary is an act of entry, no matter how partial or slight it may be, with an instrument or tool which is appropriate for the particular instance, accompanied by the proper intent. (People v. Walters, supra, 249 Cal. App. 2d at pp. 550-551; People v. Osegueda, supra, 163 Cal. App. 3d at Supp. pp. 31-32.) One can commit burglary even though the instrument in question is used merely to facilitate entry rather than to complete the larceny. (Ibid.) The insertion of a fraudulently obtained ATM card effectuates an entry into a bank's ATM for larceny just as surely as does a crowbar when applied to a vent.

As there is a paucity of California cases which involve an entry analogous to the instant case, we turn to a federal case, United States v. Gaudy, (7th Cir. 1986) 792 F.2d 664, whose facts are sufficiently similar so as to be instructive here. In Gaudy, the defendant attempted
to withdraw money from the account of another at a walk-up window facility located a block away from the main bank building by placing a check into the window of the remote facility. As here, Gaudy contended he did not enter the building within the meaning of the statute. The court rejected Gaudy's claim, holding that the statute's language reflected legislative intent to make it a crime to enter any part of a bank building with the intent to steal. (United States v. Gaudy, supra, 792 F.2d at p. 674.) That statute states, in pertinent part: "Whoever enters or attempts to enter any bank, credit union, or any savings and loan association, or any building used in whole or in part as a bank . . . , with intent to commit in such bank . . . or building, or part thereof, so used, any felony affecting such bank . . . or any larceny - [P] Shall be fined not more than $5,000 or imprisoned not more than twenty years, or both." (18 U.S.C. § 2113(a).) Ravenscroft asserts that although placing a check into a drive-up window violates the air space of a bank, the insertion of an ATM card into an ATM does not. We disagree. An ATM housed within a bank is, even more than a drive-up facility located a block from a bank, an arm of that bank building. The judgment is affirmed.
V. Mock Class: Using Your Case Brief

To prepare for your mock class, you need to read the materials below and complete the assignment distributed in the How to Brief session (critically read and brief the case provided in the handout). The Mock Class session will give you an opportunity to assess your critical reading and case briefing skills.

A. How to Prepare for Class: What Does Your Professor Really Want from You?

Your main task in your first-year classes is to read a series of cases that discuss a specific rule of law. From the cases, you will distill a legal rule or holding. The professor expects you to read and understand the cases before you come to class; this is the process of critically reading and briefing each case before class. The actual classroom experience will not tend to focus upon the briefing elements of a case (facts, issue, and holding of the case), although you will likely cover these basics in the first part of class and the first part of the semester. Instead, after an introductory discussion of the case, your professor will pose a hypothetical. A hypothetical is a new factual situation that will contain a similar legal issue. Your job is to apply the rule (from the first case) to the new factual situation (the hypothetical) and determine the likely outcome. If your professor uses the Socratic Method, the professor will choose a student from the class and hold a “conversation” with the student focusing on this new hypothetical. The purpose of this conversation is to point out the nuances of the court’s reasoning and to consider how the case might apply to this new set of facts.

In law school, we assume that you have read and understood the cases before you come to class. The classroom experience applies that information and reasoning. The purpose of law school classes is to expand upon that information; to test the credibility of the court’s reasoning; to discuss the policy implications of the court’s decision, etc. You can prepare for class most effectively by thinking about the difference between what the professor wants you to do before class as compared to what the professor expects you to do in class.

This next section will provide you with a list of suggestions to help you through the three stages of the law school classroom experience.

B. Get Prepared for Class!

1. Read and Brief the Cases Before Class

As you sit down to prepare for your first several assignments, one of your tasks is to figure out why your professor is having you read that case. As we’ve already discussed, good reading entails active, critical reading of the cases in your textbooks. This is easier said than done. You need to understand why you are reading the case. Why did the casebook author select that particular case to illustrate a particular rule or concept? As discussed earlier, before you dive into reading the case, take a moment to read any materials that come before the case. Next, check the table of contents of your casebook. Try to understand what topic or subject matter the case covers. Is the author trying to illustrate a particular rule of law? The table of contents will give you a good idea of what rule the case is meant to illustrate. In addition, check your syllabus.
Your professor also may have given you a hint about why he or she is having you read *that* case at that particular time in the course. If you can begin your class preparation with some idea of the *context* of a case— both in terms of why you’re reading the case at this time in the course and the context of the case itself— you’ve given yourself a leg up on what you will be asked in class.

After you understand the basics of the case, read the case generally, taking some notes. Next, you will want to read the case again, this time focusing on the part of the case that discusses the rule or theory most relevant to that section in the book.

Finally, after you have critically read the case, you need to write your case brief. Remember, a case brief is your organized personal notes on the case. It should include the basic briefing components, however, it should be written in a way that promotes and fosters your own learning style.

### 2. Read the Case Notes at the End of Each Chapter of Your Casebook

To assist with determining *why* you’re reading the cases— you should also make time to read the case notes *following* the major cases (or a series of cases) in your casebook. Sometimes it’s good to skim the cases notes *before* you read the actual case – this is part of critical reading. The case notes, like the table of contents, can give you a sense of why the case is important and how the rule has been applied more recently. In addition, it is possible that your professor will actually spend class time discussing the case notes. After the professor has gotten through the basic aspects of the case, he or she will begin asking you how the particular rule of law from the case will apply to a different fact situation or hypothetical. The case notes and problems will help you prepare for this important aspect of the class.

Case notes, which generally take the form of questions at the end of a case in your casebook, are designed to make you think about the legal principles raised in the readings. These questions can sometimes be frustrating to students because they are often ambiguous and difficult to address given your present knowledge of the material. However, they frequently replicate the types of questions professors include on essay exams or ask in class.

### C. Go to Class!

Make sure you attend class. Have your homework done *before* class. On the rare occasion when you cannot complete the full reading assignment beforehand, be sure to skim the reading and/or use a commercial outline to get a sense of the basics of the cases. Here are a few more important tips regarding class attendance.

#### 1. Arrive on Time

Law professors want you to arrive to class on time. If you are prone to being late, set your clock back! Some law professors will ban you from class if you arrive more than five minutes late or mark you as absent even if you are just late (you are allowed a very limited number of absences before it impacts your course grade). Perhaps in your undergraduate courses you could slink in late in a large lecture— that’s almost impossible in law school.
2. Sit Strategically in the Classroom

Consider where you will learn most effectively in the classroom. Is it close to the professor? Are you a visual learner? Do you need to be by the door to take a break during class? Do you need to minimize noise from other students? Do you need to position yourself away from your friends so you can prevent yourself from being distracted by comments and/or jokes? Try to do what is best for your learning style. If you tend to get distracted, you may want to stay up towards the front of the classroom. In law school, you want to do everything possible to create an environment that is conducive to learning.

3. Use Your Laptop for Notes Only

Laptop computers can be very distracting in the classroom. Although you might believe you can multi-task, the truth is that you cannot learn as effectively when you are multi-tasking. As you begin law school, you need your full concentration. Give yourself the opportunity to fully engage in your classes. You only should have your note-taking document open on your laptop during class time – all other applications need to be closed!

4. Take Effective Notes

After the first week of law school, you will develop your own style of taking notes in class. Initially, you’ll probably feel like you want to write down everything that goes on in class. Your notes will resemble a transcript of everything your professor discussed and everything your classmates said in response to the professor’s questions. With practice, you will learn to be more discerning in what you write down. Many times the answer your classmate gives may not be the right answer. One key strategy is to write down the questions and hypotheticals your professor asks during the class. As you go back through your notes after class, you will start to get a sense of what your professor thinks is important about the case and the types of hypotheticals your professor might raise on an exam. In addition, evaluate what you hear in class—both from your peers and your professor. You won’t agree with everything discussed in class— but if you don’t agree—be able to articulate why you disagree.

One effective strategy for taking class notes is to create a template. A template will allow you to take notes consistently throughout the semester and save them in a single document for each class, which will make them easier to review. After every two or three classes, review your notes—reorganize them and revise them. This will make outlining easier as the semester progresses.

Finally, if you do use a laptop (for class notes, as well as briefing and outlining), it is essential to devise a good back-up system for your files. Many students have computer problems at some point in law school. Thus, it is critical that you devise a way to protect your data— you won’t have time to recreate it!
D. Schedule Study Time

You will need to schedule your study time. Study time is needed before you go to class – to critically read and brief the cases – and after class to review your notes. Be prepared to feel like you should spend every minute of your day studying the law. And you could try to do that but you’d burn out in a week.

Taking regular breaks helps you learn by giving your mind, eyes, and body a rest. Then you can return to your work refreshed and able to comprehend more information. You need to schedule your study time for another reason as well. Depending on how you learn, you may find that you become too immersed in a single course or a particular reading assignment. Perhaps you are spending too much time on one subject and failing to get to the assignments in another class. There is something to be said about scheduling law school like you would organize a workday for your job.

Consider that law school is your job right now. You should assume you will work reasonably hard during your first year at your new job. Therefore, you should schedule 50 hours a week of study time (in addition to class time). Yes, we said 50 hours a week of study time in addition to class time. Plot out exactly how much time you will spend on each reading assignment. If you have three classes to prepare for in one evening, then you need to realistically assess how much time you have. If you have 6 hours in that evening, you should schedule two hours per class. This allows you to attack your studying very purposefully and carefully so that you can cover as much of the reading as possible in your allotted time.

E. The Question Everyone Wants to Ask: Should I Use Commercial Outlines and Other Study Materials?

Commercial outlines and other study materials tend to be comprehensive guides that cover the cases and legal rules applicable to a given course. They present material in a condensed, highly structured fashion, and they are often designed to parallel the materials presented in popular casebooks. Sometimes they are tailored specifically to your case books and sometimes they are written by your casebook authors or professors.

Commercial outlines can be helpful to students because they present the ‘big picture.’ In some first-year courses, like Torts for example, it can take several weeks to cover all the elements of negligence. By referring to a commercial outline (or another type of study aid), you can gain a helpful perspective about how the individual pieces of the law fit into the larger whole.

Study aids also frequently provide you with various hypotheticals or examples of how the rules apply to real-life situations. These examples are important to your classroom (and exam) preparation. Although you will discuss the basics of the cases and their holdings in class, most of your class time will be spent discussing the application of the case rules to new hypotheticals. If you’ve already considered possible examples as you’ve prepared for class, you will be even more prepared than if you only read and briefed the cases.
There are many different types of study aids that include commercial outlines, treatises, or hornbooks. Many professors will encourage you not to use study aids. They generally do this because they want you to learn how to derive the rules from cases on your own (a skill that you must have as an attorney) rather than using commercial study aids to get the “answer.” This is an important point made by these professors. If you use commercial study aids to get the “answer” and you do not figure it out on your own, you will miss the key learning opportunity. Instead, if you decide to use commercial study aids, use them for what they are – aids to assist you in your learning process. Commercial study aids are used most effectively to preview the cases before you read them in your case book and to help you see the big picture of how the cases fit into the full context of the course. They can be an important resource to help with preparations for classes and exams.

But note: commercial outlines or other study aids cannot substitute for your individually prepared course materials. You need to critically read and brief the material yourself so you can engage in active learning and you need to go to class (because your professor will test you on the material you’ve covered in class).

Finally, there also are “canned” briefs available. These are case briefs written by someone else for the cases assigned in class. Although we cannot prevent you from using canned briefs, we can say with conviction that you are making a serious mistake if you rely on them for class preparation. Remember that the purpose of briefing cases is not to have a document for class. Instead, the real value of briefing is in the analytical thought process that goes into preparing each brief. Relying on someone else’s brief virtually guarantees that you will come away with a lower level of understanding. In the short run, these prepared briefs may help you answer some very basic questions in class, but they will not help you learn how to engage in legal analysis on your own, take exams, or prepare for the vast amount of writing you will be do in law school and in law practice.
A 1L’s Glossary of Useful Terms

BRIEFING A CASE (BREEF-ing UK KÅS) v. Preparing an analytical summary of a judicial opinion, usually in preparation for class discussion or in preparation for law school exams. Formats for case briefs vary significantly and can be quite idiosyncratic. Typically, however, the format will follow the IRAC method. (See IRAC, infra. See also INFRA, infra.)

CASE METHOD (KÅS MÊH-thud) n. The primary method of teaching law in law schools in the United States. Pioneered at Harvard Law School by Christopher Columbus Langdell, it is based on the idea that the best way to learn U.S. law is to read the actual judicial opinions that become the law under the rule of stare decisis (see STARE DECISIS, infra), a principle of Anglo-American common law origin. (See COMMON LAW, infra.) Especially in first-year courses, U.S. law professors typically use assigned cases from published casebooks (see CASEBOOK, infra), or from their own materials, often coupled with a Socratic method of teaching (see SOCRATIC METHOD, infra), to teach the law. The case method was later adapted by Harvard Business School and other business schools. In most other countries, law school still involves lecture-style study and analysis of abstract legal rules.

CASEBOOK (KÅS-boohk) n. A bound collection of highly edited, illustrative case decisions in a particular area of law, together with brief notes that summarize the holdings of other cases further refining the rule, raise problems with the reasoning of the illustrative case, or provide other useful information. A CASEBOOK should not be confused with a TREATISE, which is a scholarly textbook discussing and analyzing a particular area of the law, or a STUDY AID, which is a brief book or pamphlet that offers simplified explanation of a particular area.

CAUSE OF ACTION (CAWZ ÜVK AK-shûn) n. Sometimes called a claim, a cause of action is a set of facts sufficient to justify a court in awarding a “plaintiff” money, property, or the enforcement of a right against a “defendant.” (See also REMEDY, infra.) The name given to some typical causes of action may be a phrase referring to the legal theory on the basis of which the plaintiff brings suit (e.g., “breach of contract,” “battery,” “false imprisonment”).

COMMON LAW (CÄ-min LAW) n. Law developed by individual judges or panels of judges through decisions in cases before them, called “case law,” rather than through legislation (statutes) or administrative regulations. (See COMMON LAW SYSTEM, infra; OPINION, COMMON LAW, infra)

COMMON LAW SYSTEM (CÄ-min LAW SIS-tûm) n. A legal system that treats case decisions by individual judges or panels of judges as binding on future cases with similar facts and legal issues. The system exists in countries with an Anglo-American legal history and tradition (e.g., Australia, England, Ireland, New Zealand, the United States of America). (See COMMON LAW, supra; OPINION, COMMON LAW, infra; SUPRA, infra.)

DAMAGES (DAM-î-jîz) n. A type of legal relief in the form of a monetary award, as compensation for a loss or injury, against a defendant for liability under various claims or causes of action. (See CAUSE OF ACTION, supra.) Different areas of law provide for various types of available damages including, e.g., compensatory damages, exemplary damages, special damages, punitive damages, etc.

DICTA (DIK-tah; Latin, pl. of dictum; from dicere, to speak) n. A statement in a court opinion that extends beyond the issue raised by the case before the court. As such, dicta are not binding under the principle of stare decisis. (See STARE DECISIS, infra; OBITER DICTA, infra.)

EQUITY (EK-wi-tee) n. The application of general principles of justice and fairness to relieve, correct, or supplement remedies available in a court of law. (See, e.g., ESTOPPEL, infra.) The Chancery Court in England developed a separate system of equitable principles and procedure, alongside the common law system. The typical remedy in equity is the injunction. (See INJUNCTION, infra; REMEDY, infra.) The Federal Rules of Civil Procedure merged the separate systems of law and equity into one form of action, the civil action. FRCP 2. A few states still retain the separate law and equity systems, as well as separate law and equity courts.

ESTOPPEL (eh-STÔP-uhi; fr. OF estouppil, “stopper plug;” also estopper, “stop up,” “impede”) n. Term referring to one of a series of legal and equitable doctrines. The historical example was estoppel in pais, a doctrine of equity (see EQUITY, supra) that precluded a person from denying or asserting anything to the contrary of what he or she had asserted to be true by his/her own deed, acts, or representations to another person, either express or implied. By extension, courts have also developed distinct doctrines, for example, promissory estoppel, an alternative to contract as a basis for enforcing a promise. (See PROMISSORY ESTOPPEL, infra.)

HOLDING (HÔL-ding) n. The determination of or answer to a question of law by a judge or panel of judges, based on the issue presented in a particular case. More familiarly known as the ratio decidendi. (See RATIO DECIDENDI, infra.)

INFRA (IN-frâ; Latin infra, below) adv. Referring to something discussed later. (See also SUPRA, infra.)

INJUNCTION (in-JUN-kshûn) n. Equitable remedy in the form of a court order requiring a party to do, or to refrain from doing, certain acts. A party subject to an injunction who fails to adhere to the injunction faces civil or criminal penalties and may have to pay damages or accept sanctions for failing to follow the court’s order. (See EQUITY, supra.)

IRAC (EYE-rak) An acronym that stands for: Issue, Rule, Application, and Conclusion. It is a methodology or checklist for organizing legal analysis, especially in answering complex hypothetical questions on law school exams. Proponents of IRAC methodology argue that it reduces legal reasoning to the application of a formula that helps organize your legal analysis so that it is clear and easy to follow. Opponents of IRAC methodology argue that it reduces legal reasoning to the application of a formula that tends to oversimplify your legal analysis so that it is dull and lacking in important detail. Both views are correct; IRAC is a useful tool for organization - if you don’t use it as a substitute for thinking. (Not to be confused with the Insecticide Resistance Action Committee (IRAC), formed in 1984 as a specialist technical group to prevent or delay the development of resistance in insect and mite pests.)

IRAQ (ee-ROK; eye-RAK; Arabic: ﺍﻟ-IRQ, Al-Iraq) n. Garden spot of Western Asia, home to continuous successful civilizations since the 6th millennium BC. (Not to be confused with IRAC, supra.)
**Jurisdiction** (joor-iss-DIK-shun) n. From the Latin words *iuris* meaning “of law” and *dicere* meaning “to speak.” Speaking of law, jurisdiction is the authority that a legal body or a political leader has to deal with all or specified legal questions or to create new laws or legal rules (legislative jurisdiction), to issue rulings and opinions, and make pronouncements on legal matters (judicial jurisdiction), or to administer and enforce laws (executive or administrative jurisdiction). The term may also be used to refer to a specific geographical area or subject matter to which such authority applies.

**Obiter Dicta** (OH-bit-ter-DIK-tah; Latin, pl. of *obiter dictum*; from *dicere*, to speak or say, “said by the way”) n. Statement made in a judicial opinion that does not form a necessary part of the court’s decision, but is introduced into the opinion by way of illustration, analogy or argument. As compared with the expression *dicta* (see *DICTA*, supra), *obiter dicta* is really, really beyond the issue raised by the case before the court.

**Opinion, Common Law** n. Written decision of a judge or panel of judges in a case, typically with reasons for the decision and legal analysis of past cases raising similar issues or facts. In a country with an Anglo-American legal history and tradition (“common law tradition”), such opinions are considered “precedents” that bind all future judges presiding over similar cases or issues. (See *CASEBOOK*, supra; *COMMON LAW*, supra. See also *SUPRA*, infra.)

**Promissory Estoppel** (PRÁ-miz-sôr-ree ah-STOP-uhl) n. A doctrine of contract law that provides an alternative to an exchange of promises or “consideration” as a basis for enforcing a promise. The doctrine is sometimes referred to as detrimental reliance. In 1932, the American Law Institute memorialized the doctrine in § 90 of the *Restatement of Contracts*, which states that “[a] promise which the promisor should reasonably expect to induce action or forbearance of a definite and substantial character on the part of the promisee and which does induce such action or forbearance is binding if injustice can be avoided only by enforcement of the promise.” The doctrine was continued in *Restatement* (Second), but without the requirement that the detriment be “substantial.” (See also *ESTOPPEL*, supra.)

**Ratio Decendi** (RAH-tzee-oh DEK-ee-DEN-dee) n. Latin phrase meaning “the reason for the decision.” It is the legal explanation given by a judge or panel of judges in an opinion for the decision that the court has made in a case. (See *HOLDING*, supra; see also *SUPRA*, infra.)

**Remedy** (REM-i-dee) n. Relief sought from a court by someone (the “plaintiff”) claiming an injury by another person (the “defendant”). Typical remedies in U.S. law are damages (see *DAMAGES*, supra) and injunctive relief (see *INJUNCTION*, supra).

**Stare Decisis** (STAR-ay-duh-SYE-siss; STAR-ee-dee-SYE-siss; from Latin maxim *Stare decisis et non quieta movere* (“stand by decisions and do not disturb the undisturbed”)) Legal principle under which judges are obliged to respect the precedents established by prior decisions. The principle is considered a defining characteristic of the common law system. (See *COMMON LAW*, supra. See also *SUPRA*, infra.)

**Supra** (SOO-prá; Latin supra, above) adv. Referring to a citation, expression, or word discussed previously. (See also *INFRA*, supra.)

**Tort** (tört; French, tort; “mischief,” “injury,” “wrong”; Latin, tortus “twisted”) n. The area of common law dealing with civil wrongdoings, as distinct from a crime. A person injured by another’s wrongful act may be able to use tort law to receive damages (i.e., monetary compensation) from the person responsible or “liable” for the injury. Major categories of torts are intentional torts (where the wrongdoer must be shown to act with some intention to act), negligent torts (where the wrongdoer must only be shown to have acted without the carelessness ordinarily expected in the circumstances), and strict liability torts (where the wrongdoer must only be shown to have done the injurious act). Not to be confused with *torte*. (See *TORTE*, infra.)

**TorT** (TÖRT-uh; German, Torte; Italian, torta) n. Cake, Central European in origin, made primarily with eggs, sugar, and ground nuts instead of flour, although some variants include bread crumbs or some flour. The best known tortes include the Austrian Sachertorte and Linzer torte, the German Schwarzwalder Kirschtorte and the Hungarian Dobos torte. Other well-known European confections referred to as tortes include the French Gâteau St. Honoré. A common element in most tortes is sweet icing, but exceptions include French tortes such as Gâteau Mercédès and Gâteau Alcazar. If you have occasion to participate in the McGeorge Summer Program in Salzburg, Austria, you may sample most of these tortes at one of the many Konditoreien and Café (or Kaffeehäuser) throughout the city.

![Sacher Torte](image-url)
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<thead>
<tr>
<th>Location</th>
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<td>Academic Affairs</td>
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