Pieces of the Office Memo

LS I – CLASS SESSION 4

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Today's Agenda

- Quick Review
- Mindfulness Moment
- Overview of an Office Memo
- Breaking Down C(t)REAC
- Begin Discussion 1: sort the facts and break down statute
- Questions about the example memos

Mindfulness Moment + Professional Identity Development:
Don't Stay Lost

- We've been throwing a lot of intense detail at you.
- When you feel lost in the minutiae and not sure how the current discussion fits into the big picture, go back to the basics.
  - Syllabus outline of assignments/topics
  - Textbook table of contents
  - Study guides (look ahead to see where you're going)
- Don't let the details drag you down.
- Commercial Study Guides $$$ - but lots are free
- The Library – say, what? It's free?! It's free.
- Westlaw 1L Resources
- Lexis 1L Resources

Get Involved

Professional identity development requires networking.

- San Diego County Bar Association – free student membership
- ABA Student Memberships (free?)
- Campus Affinity Groups (and local bar affinity groups)
- Study Groups

Quick Review

- We are ending Module 1 – "Building Blocks"
- Entering Module 2 – "Discussion Sections"
- Going forward: the quick review slide will start over with each module
- We'll revisit the early stuff throughout the semester –

  spaced repetition.

Quick Review

Mindfulness

- ABA says to take care of ourselves
- Boxed Breathing
- Body posture (including face and shoulders) while studying
- Professionalism Module on Canvas
- Maintain your prior hobbies and relaxation methods
- Don't forget your loved ones. They're also going through a 1L experience.

Multi-cultural Awareness

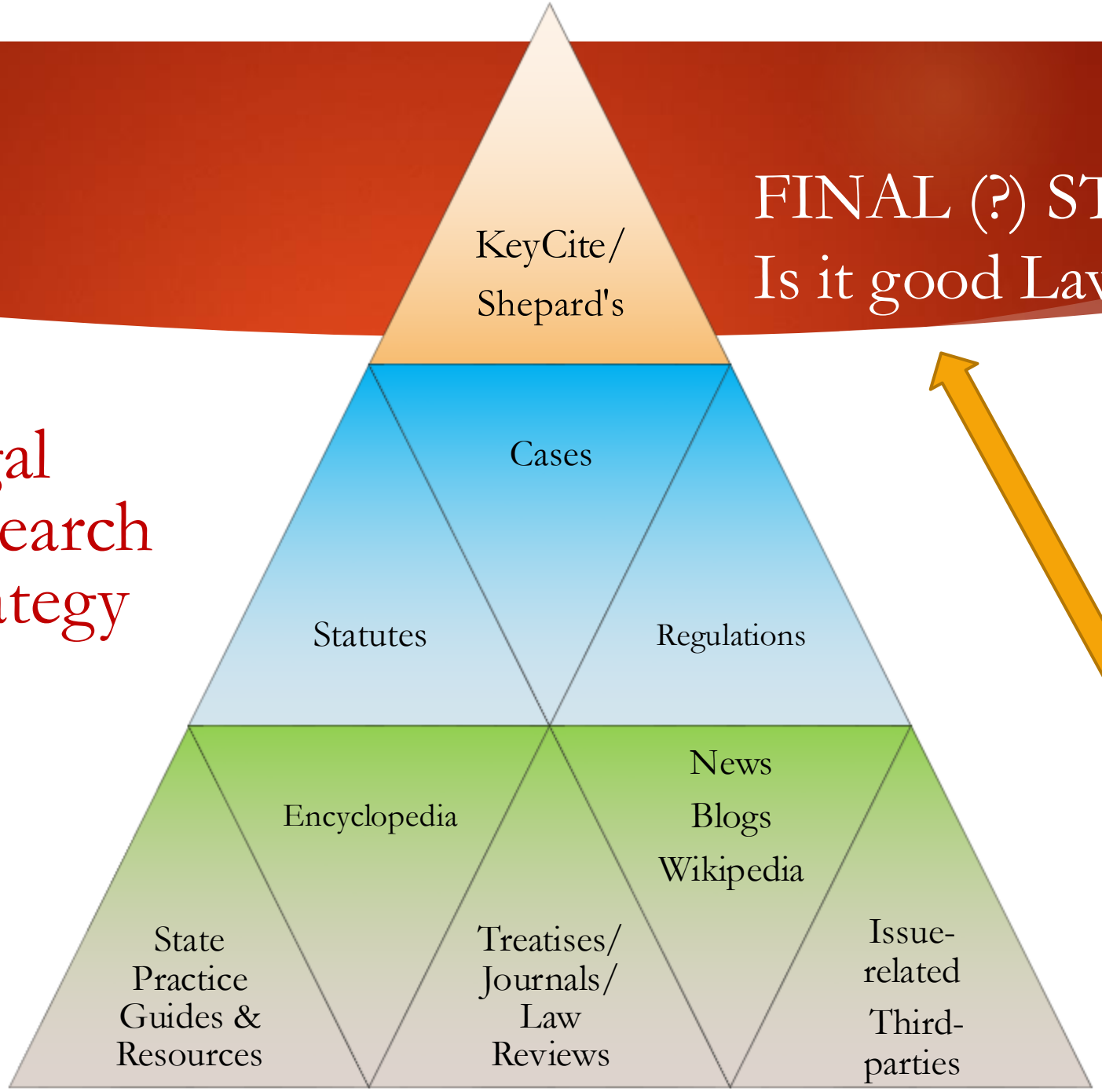
- Especially if you've always surrounded yourself with similar individuals – reach beyond your comfort zone.
- Be aware of preferred identity terms that area always evolving. When in doubt, ask the preferred term.

Skills

- Common law v. Civil law
- Hierarchy of U.S. Courts and State Courts (CA)
- Map of U.S. Circuit Courts of Appeal
- Case reporter systems
- Statutes in state or federal "codes"
- Finding cases on Westlaw and Lexis
- Reading/briefing a case (more today)
- Primary/Secondary & Persuasive/Mandatory
- Legal Philosophies and History
- Research Process
- Reasoning Process
- Basic case citation format

FINAL (?) STEP: Is it good Law?

Legal Research Strategy



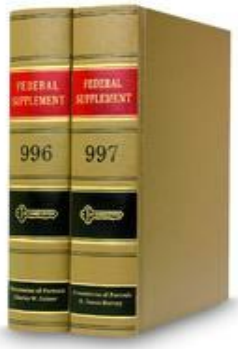
Begin

Where to Find Cases

Federal Reporter

U.S. Circuit Courts of Appeals

F.3d ### (7th Cir. 2019).



Federal Supplement

U.S. District Courts

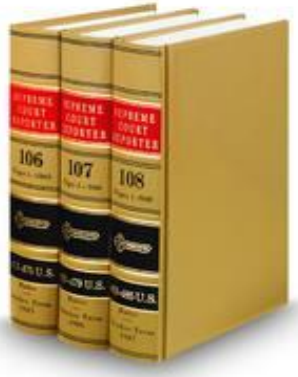
F. Supp.3d

(U.S.D.C. N.D. IN 2019).

California State-Published Case Reporters (Lexis/Michie has the contract):

Cal. Reports – Cal. Sup. Crt.
Cal. App. Reports – Cal. App.

West also publishes a California Reporter, but only since 1959. Notice that the West version is "Reporter" and the official state version is "Reports."



Supreme Court Reporter

United States Supreme Court

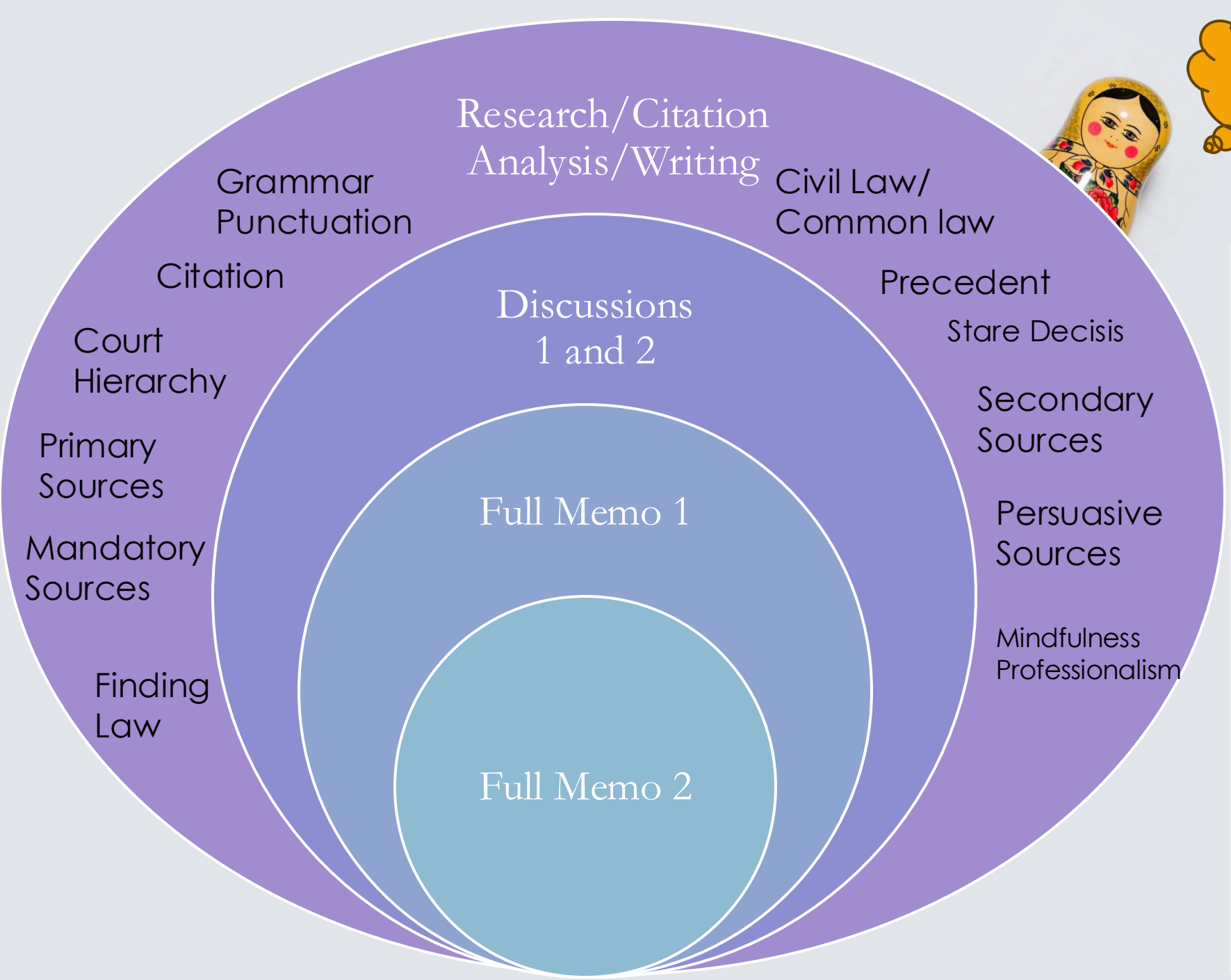
S. Ct. ### (2019).

U.S. ### (2019).

State Case Reporters

Statutory Analysis Exercise: Confusing Street Signs – Write A Single Sign/Statute That Explains These

Mark	Mark It Up
Break	Break It Down
Answer	Answer the W's: Who, What, When, Where, Why + Consequences



How the skills nest together

Basic skills enable your work

Discussion 1 – only 1 issue; no research
Discussion 2 – 2 issues/2 CREACs; no research

Full Memo – Add other memo pieces; two issues; partial research;1 issue has sub-issues = 3 CREACs

Final Memo – two issues with 2 sub-issues each = 4 CREACs; all research on you

Statutes & Regulations

United States Code

California Code

Code of Federal Regulations

California Code of Regulations

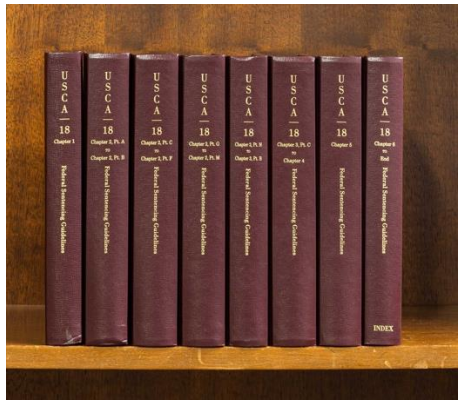
Federal Register (published daily)

California Regulatory Notice Register (published weekly)

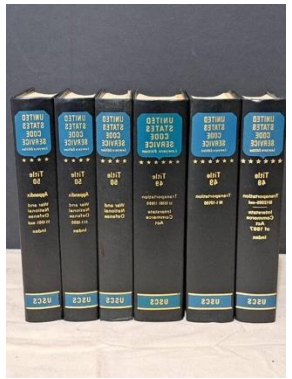
- U.S. Code: 53 titles by topic

  Find in:

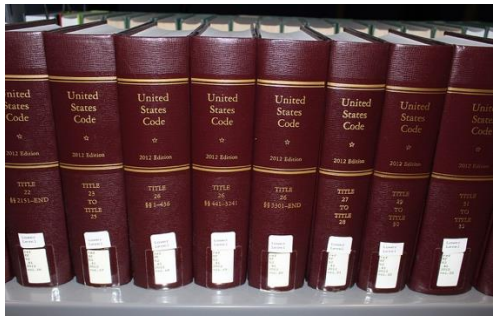
  - U.S.C. – official publication
  - U.S.C.A. – U.S. Code Annotated (Westlaw)
  - U.S.C.S. – U.S. Code Service (Lexis)
- Code of Fed. Regs.: 50 titles
  - C.F.R. – official publication
- Let's go to Lexis



U.S.C.A



U.S.C.S.



Official U.S.C.

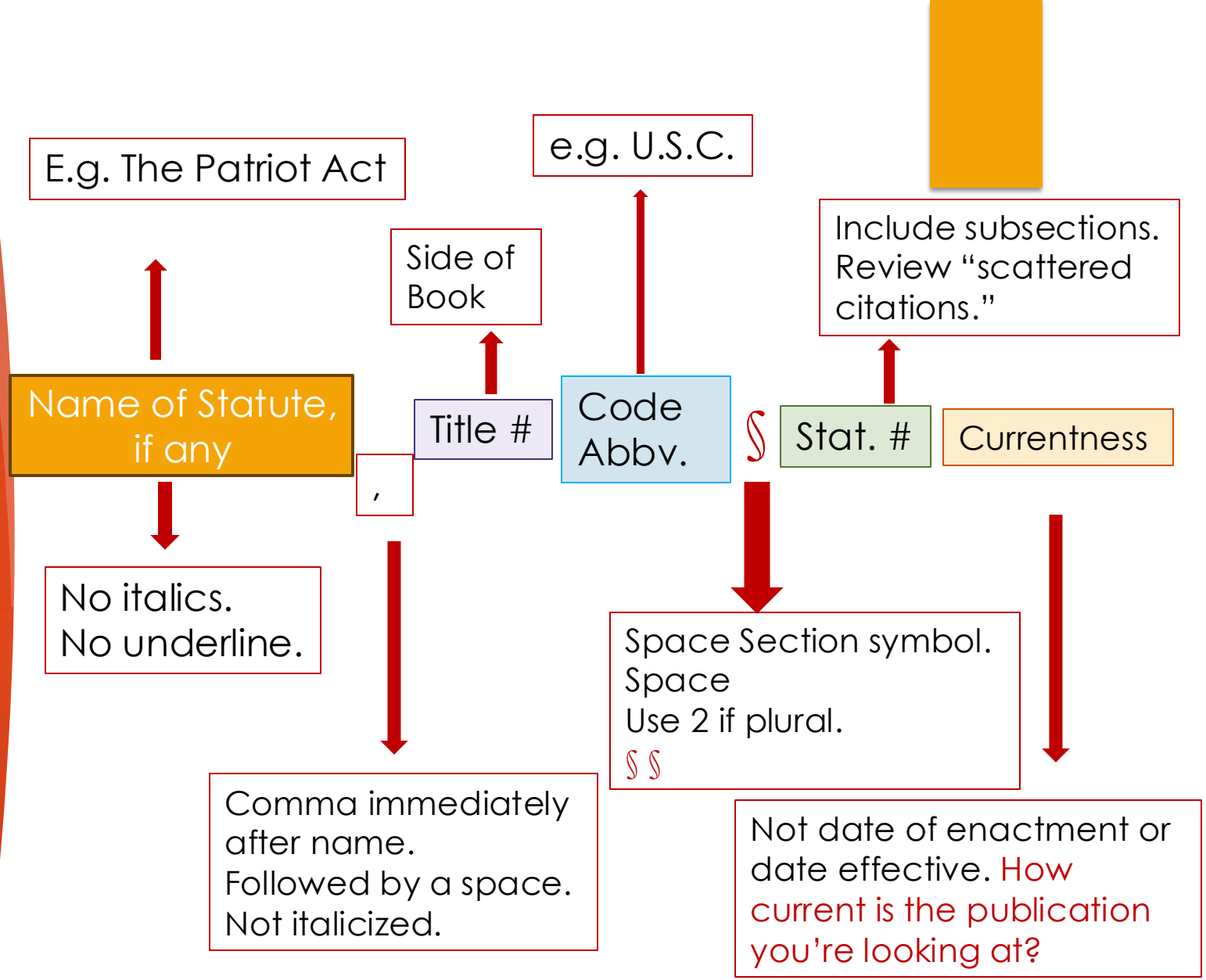
Citation Formats

ALWD Rule 14

Bluebook Rule 12

Indigo Book - Part C

Full citation formula.



Examples

For state abbreviations:

ALWD appendix 1(B)

Bluebook T1.3

Indigo Book - Part J

Statutes are trickier than cases. Check and double check the rules and appendices.

- Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601–9675.
- 20 U.S.C. § 1401.
- 20 U.S.C.S. § 1400 (LexisNexis, Lexis Advance through Public Law 118-13, approved August 7, 2023)
- 1 C.F.R. § 1.1.
- 1 C.F.R. § 1.1 (Lexis Advance through the Aug. 31, 2023 issue of the Federal Register, with the exception of the amendments appearing at 88 FR 60278)
- Cal. Educ. Code § 56000 (2025).
- Cal. Educ. Code § 56000 (Deering, Lexis Advance through the 2023 Extra Session Ch 1, 2023 Regular Session Ch. 133)

You may omit the year for U.S.C. IF you use the official U.S.C., but see here for U.S.C.S. and U.S.C.A.

Same with regulations.

Purpose of an Office Memo

- Always remember your audience!
- Your writing style must adjust for your audience.
- Don't forget – you are not writing to me as a professor to prove that you know something; you are writing to a supervising attorney.

- Inform a colleague about an issue
- Inform the client
- Inform yourself
- CYA

Pieces of an Office Memo

Macro-Structure

The different sections of an office memo.

- Header
- Issue Presented
- Brief Answer
- Statement of Facts
- [Statute Language, if any]
- Discussion
- Overall Conclusion [if +1 issue]

Micro-Structure

The inner workings of the writing paradigms.

We will use C(t)REAC, moving on from IRAC.

Conclusion/Thesis

Rule

Explanation

Application

Conclusion

Office Memo Macro-Structure

- Think of these as *Sections* of the Memo;
- For now, we are Only working on the *Discussion Section* ("mini-memo").

HEADER

Issue(s) Presented

Brief Answer(s)

Facts Statement

Discussion

C/T
R
E
A
C

Overall Conclusion
(if multiple issues)

These text box sizes are generally representative of the relative length of each office memo "section."

Office Memo Micro-Structure

HEADER

Issue(s) Presented

Brief Answer(s)

Facts Statement

Discussion

Overall Conclusion

Conclusion/Thesis

Rule

Explanation

Application

Conclusion

Discussion Section

Purpose for each CREAC piece

C/T
- Inform the reader what you are about to tell them

R
- State the applicable law (with citations in order of authority)

E
- Explain each citation, in the order cited

A
- Summarize and evaluate each party's arguments; apply each citation to the case at hand (same order)

C
- Remind the reader what you've just told them; make prediction

Conclusion/Thesis

What goes into an introductory "conclusion" or thesis paragraph?

- Remind the reader about the issue
- Include key, operative facts
- State the rule
- What is your conclusion about the issue?
- It's like a mini-c(t)reac within the first paragraph.

Good Example:

Fred and Barney often traveled together, and Fred always drove. On September 15, 3000 BC, Fred drove Barney and himself to work, but because he had gout in his big toe, he could not stop his stone wagon fast enough and caused an accident. Barney was injured. Barney sued Fred, arguing that Fred should not propel a car with his feet. Following the Bedrock statute and Bedrock cases that interpret the statute, Fred, and all Bedrock residents, may propel a stone wagon and are immune from lawsuit. Fred would likely succeed in a motion to dismiss Barney's complaint.

- ✓ Key facts
- ✓ Arguments
- ✓ Law and brief application
- ✓ Conclusion/ prediction

Bad Example:

Barney and Fred had a car accident because Fred was propelling his car with his feet. However, Barney can't sue Fred because people in Bedrock may propel their cars with their feet.

Total lack of detail.

Rule Statement

What goes into a rule statement?

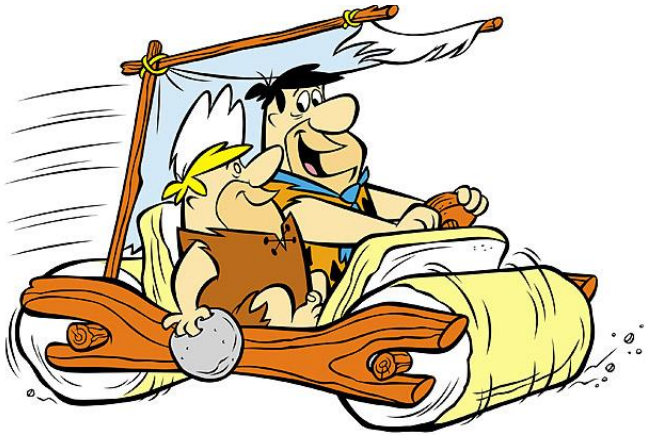
- ONLY THE RULE + Citations
- Do not discuss facts of case
- Do not explain the citations
- Whatever points of law you have, synthesize it into one rule statement.
- May require more than one sentence. Try to synthesize.
- Proper order of citations

Good Example:

Bedrock citizens may foot-propel their stone wagons and are immune from liability when they cause injuries while doing so. Bedrock Stats. § 123; *Betty v. Wilma*, 456 Bd. R.3d (Bd. R. App. 1966); *Barney v. Fred*, 891 Bd. R. Supp.3d (D. Bd. R. 1960).

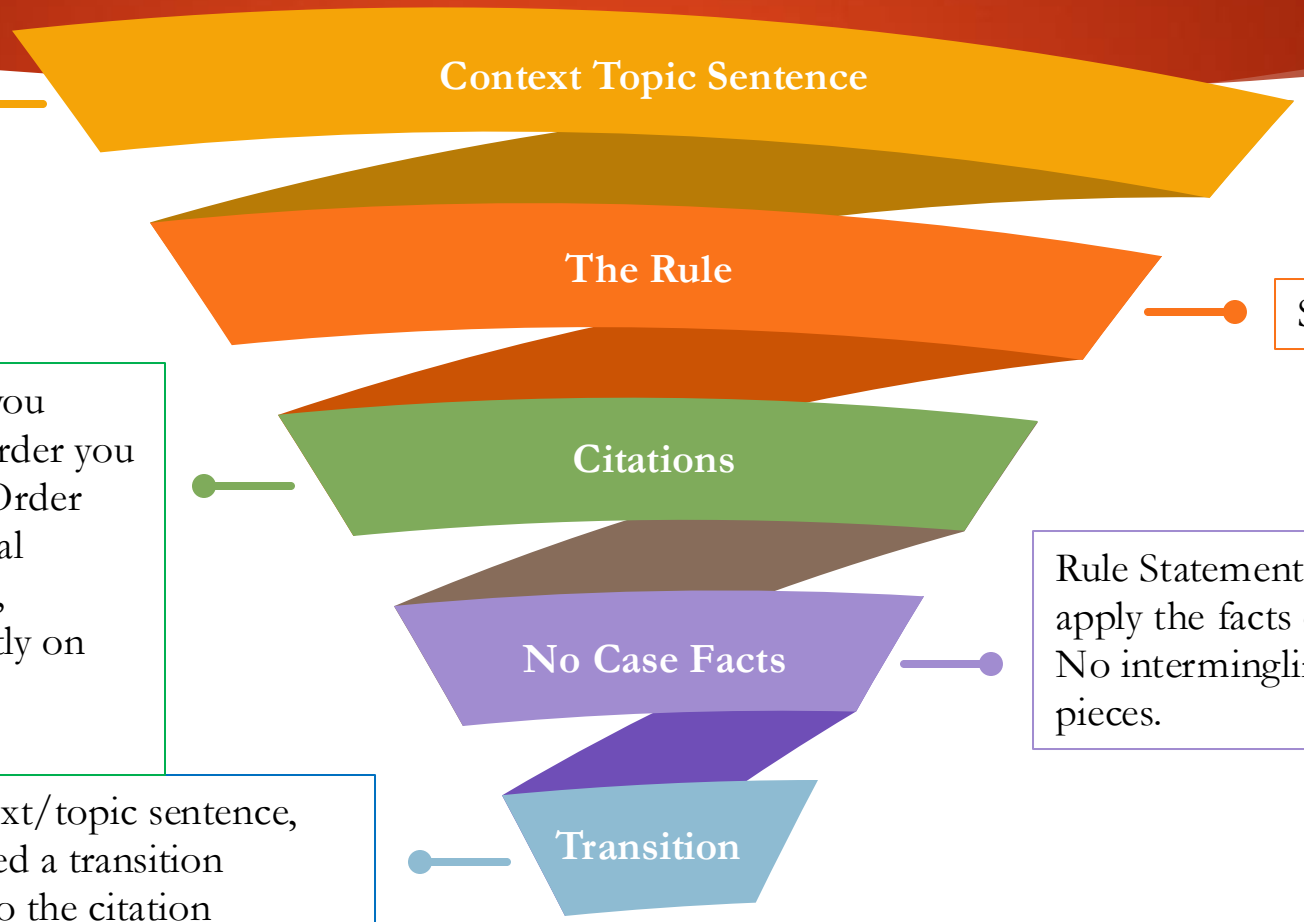
Bad Example:

Cars can be driven by foot. *Bedrock* 123, Betty, 1966, *Barney and Fred, 1960*.



Rule Statement

CREAC PARADIGM



Does your reader need context to understand the rule statement? Usually, this is handled in the Conclusion/Thesis paragraph. If transition is necessary in rule statement, keep it brief.

Synthesized from sources of law.

Order your citations, from which you synthesized the rule, in the same order you will explain each of the citations. Order the citations in relation to their legal significance: constitutions, statutes, regulations, mandatory cases directly on point, other mandatory cases, and persuasive authority.

Rule Statement is not the place to apply the facts of the case at hand. No intermingling the CREAC pieces.

Much like the context/topic sentence, your reader may need a transition sentence to ease into the citation explanations. May also save transition for first explanation topic sentene.

CITATION ROADMAP

Help Your Reader Travel The Document
C(t)REAC Paradigm

C(t)

R

E

A

C

Rule Statement

Cite the sources from mandatory to persuasive:

- Constitutions (if any)
- Statutes (if any)
- Mandatory Cases – direct use
- Mandatory Cases – counter arguments
- Persuasive Cases
- Secondary Sources – rarely used in a rule statement

Explanation

Explain the cited sources in the same order in which you cited them in the rule statement.

Application

Apply the citations to the case at hand in the same order in which you cited them in the rule statement and in the explanation section.

Roadmap Example: C(T)REAC

<Conclusion/Thesis Paragraph>

RULE:

This is the rule I have synthesized from the statute and cases. **Cal. Code § 123**; ***Doe v. Doe1*, 123 P.3d 123 (Cal. 2022)**; ***Roe v. Roe 1*, 123 P.3d 123 (Cal. 2022)**.

<Explanation Section>

Explain Statute

Explain *Doe v. Doe1*

Explain *Roe v. Roe1*

<Application Section>

Apply Statute

Apply *Doe v. Doe1*

Apply *Roe v. Roe1*

<Conclusion>

No leap-frogging. Send the frog packin'.

Leap-Frog Example:

Explain
Apply
Explain
Apply
Explain
Apply

Explanation Section

What goes into an explanation section?

CAUTION:

- Do not talk about the case at hand
- Only explain rule citations – in the same order as cited
- Just brief the citation in paragraph form

- Explain each citation separately – may need more than one paragraph per citation
- Follow the order that you set-out in the rule statement citation
- Think of it as a case brief
  - Who, what, when, where, why?
  - Issue
  - Key facts
  - Holding
  - Reasoning

Explaining Constitutions, Statutes, and Regulations

Tell me more than the fact that it exists.

- Educate the reader *ABOUT* the statute, more than simply that there is a statute and what it says
- Look to legislative intent.
- Legislative history.
- Do the cases say something in dicta about why we have the statute?
- Secondary sources helpful?
- For some problems, all of the statutes/regs can be explained together – for example, when a regulation echoes a statute with identical language
- When changing from one title of a code to another, you should use separate explanations.

Explanation

CREAC Paradigm

A case or statute explanation may be more than one paragraph.

Transition

Whether you are moving from rule statement or from the explanation of another citation, the reader needs a transition sentence. This can also be placed at the end of the prior explanation. Tell the reader why you want to talk about the cited source. STRONG TOPIC SENTENCE.

Case Facts or Statute Meaning

For cases, what is it about the facts that led you to choose the case. What facts are pertinent to the issue at hand?

For statutes, what is the plain meaning or do you need to rely on canons of construction?

Holding or Legislative Intent

For cases, explain the holding.

For statutes, what is the legislative intent? Is there regulatory guidance?

Reasoning

On what did the court rely, or what was the legislative intent?

Are there public policy issues addressed in the case?

Transition

Your reader needs a transition into the next source to be explained.

Transition | Facts | Holding | Reasoning | Transition | Sources explained in same order as cited in rule statement | Refrained from discussing current case

Application Section

What goes into the application section?

- Apply each citation to the case at hand
- Apply each citation separately (follow your rule citation roadmap – case A and Case B should not be explained together)
- How is the citation similar or dissimilar to the case at hand?

Example transition sentences:

- Client's case falls under Bedrock Statutes § 123 because…
- Our client's situation aligns with *Barney v. Fred*…
- Unlike *Wilma v. Betty*…

Rule:

Bedrock citizens may foot propel their stone wagons and are immune from liability when they injure others while driving. Bedrock Stats. § 123; *Betty v. Wilma*, 456 Bd.R.3d (1966); *Barney v. Fred*, 891 Bd.R. Supp.3d 1960).

Order of citations:

1. The statute
2. Betty v. Wilma
3. Barney v. Fred

Rule statement citation creates a roadmap so that the reader can easily follow the same order in the explanation section and in the application section.

Explanation:

Bedrock Statute § 123 governs how Bedrock citizens may propel their stone wagons forward…(use the actual statute language)

The Bedrock Supreme Court considered Bedrock Statute §123 in *Betty v. Wilma*…

Similarly, the *Barney v. Fred* court also found that…

Notice the transition language for each sentence.

Application:

Bedrock Statute § 123 governs Papa Smurf's case because he was visiting Bedrock, and…

Papa Smurf's case aligns with *Betty v. Wilma* because…however, opposing counsel may argue that…

One might distinguish Papa Smurf's case from *Barney v. Fred* because…nevertheless, opposing counsel could argue…

(final) Conclusion Section

What goes into a final C(t)REAC conclusion section?

- Be thorough – you will see very brief examples, but I think this section is an opportunity to reinforce what you taught the reader.
- A reiteration of your intro "conclusion" or thesis paragraph – very similar
- This is different from the "Overall Conclusion" macro section of the memo (i.e. issue presented, brief answer, facts, discussion, and overall conclusion)
- You only need an "Overall Conclusion" section when you have multiple issues
- Consider writing your C(t) and your final C last

Bad example:

For the foregoing reasons, Barney can't sue Fred.

Discussion 1

My inspiration:

My spouse's niece and I were discussing frustration about how settlement agreements hide bad behavior and allow abusers to continue abusing. She is a domestic violence advocate and family paralegal in South Carolina. Plus, the Epstein mess.

With colleagues, sort the facts.

- How will you organize the facts?
  - Bullet-pointed list
  - Table in MS Word
  - Spreadsheet in Excel

Necessary Facts:

What's the story?
Offer basic context.

Must use

Legally Operative Facts:

Actually matter to the analysis with statute and cases.

A fact might overlap types.

Emotional Facts:

Exciting and of interest but not necessary for context or analysis.

Usually only persuasive value; don't use in objective writing.

Discussion 1

The Speak Out Act

With a partner – find the statute in Lexis

Pause after you find it.

- Speak Out Act, 42 U.S.C. 19401 et seq.
- Consider using the acronym SOA
  - How: embedded definition
  - Example: Speak Out Act ("SOA")
- Title VII is relevant only in that it provides a cause of action. Mention that and move on. It won't be cited in your rule statement.

For Next Time

Sept. 9

- Office Memo – Discussion Section in class work; we will share drafted language anonymously overhead, so have your rule statement drafted.
- Deadlines this weekend
- Discussion Section 1 – due Sept. 12, 5pm