

A WEEKLY GUIDE TO

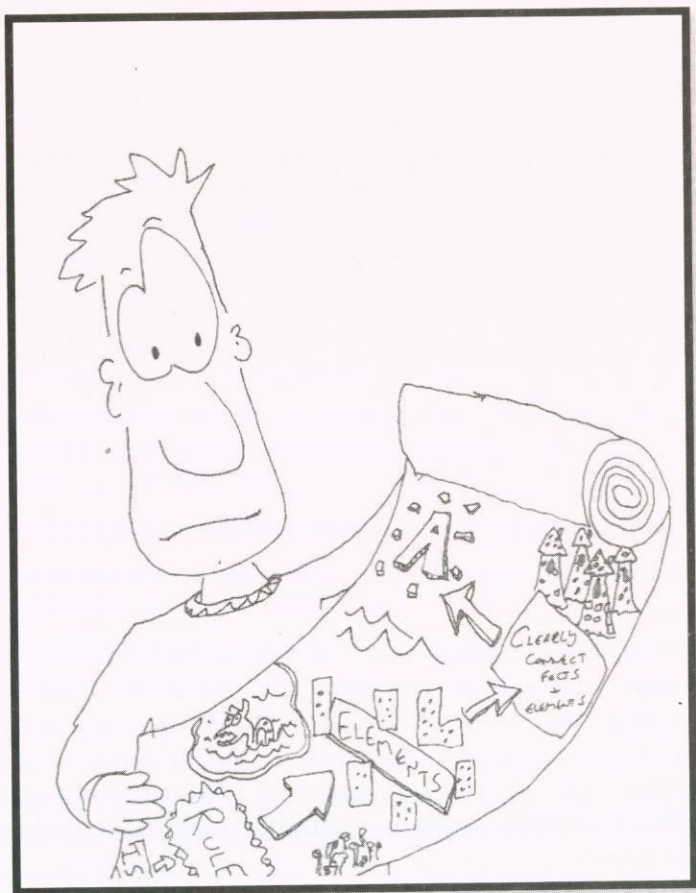
BEING A MODEL LAW STUDENT

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WEEK ONE



You're going to have to do a lot of new things in the first few weeks. Consequently, the first few chapters of this book will be a lot longer than the chapters that come later. Simply follow the steps below (and remember to check the boxes):

1. MAKE A SET SCHEDULE ☐

Making a set schedule means taking out a piece of paper, a whiteboard, or your electronic organizer and writing down exactly what you are doing for the week. The biggest mistake

students make is not making a schedule. The second biggest mistake is not making that schedule a highly detailed one that includes all the things one needs to do to perform well in law school, broken down into daily and weekly routines.

Most students, when they make a schedule at all, simply write “study” or “read” or “torts” to cover a big chunk of time in their day. Because of this generalization, they usually end up just reading cases and preparing for that day’s class during their study time.

The problem with this strategy is that the final exam is going to be more than a reading test. Just reading in order to prepare for the exam would be like getting into a boxing ring when all you have ever done is read about how to box. No sane person would do that. If you wanted to box and not get beaten to a pulp, you might read about boxing, but you would also exercise, do boxing drills, spar a little, etc.

A. The Goals of a Schedule

A schedule is designed to do three things: keep you on track, keep you studying enough, and make sure you use your time effectively.

We live in an amazing age of ubiquitous time-sucks. We have constant access to the Internet, Facebook, apps, video games, and pictures of grouchy cats. If you don’t keep yourself on track, you may easily spend an hour playing around on Twitter when you should be studying. If you have a schedule that you have actually written down, it is also one less thing you have to remember.

i. Keeping on Track

To do well in law school, you must do four primary things: go to class, read and brief cases, write an outline, and do practice questions. Your schedule should have each of these tasks listed specifically, so you are sure to do them. You want to be sure that you don’t inadvertently take away time from outlining to give yourself more time to read, for example. Both tasks are equally necessary.

A set schedule works because, for every task, it provides both a carrot and a stick. Instead of thinking you have 50 pages to read over some nebulous time period, your schedule will tell you that you have two hours to read and brief 50 pages before you need to move on to your next task. The carrot is that you know you only have to do this for two hours; the stick is that you know you only have two hours to get the work done or you may find yourself unprepared for class.

A schedule can help you create a little internal pressure to get work done. Pressure motivates. For example, imagine telling yourself on Friday night, "I should clean my apartment this weekend." You might get around to it Sunday night, since other stuff is going to get in the way and you're probably not psyched to do it in the first place. But if the Dean of the law school is coming over to your apartment in an hour, you will focus and clean your apartment in an hour. A schedule can help you create this kind of motivation for yourself, and make your studying much more effective.

ii. Keep You Studying Enough

The general rule of thumb is that every credit hour requires three hours of outside studying time per week. If you are taking somewhere near 15 credits, this rule results in 45 hours of law study outside of class per week. All together, law school becomes somewhere around a 60-hour-a-week job. This is an admittedly stout job, but you want to do well, and this commitment still provides time to have a life outside of law school. For the sample schedule below, my hypothetical student cut back on a few hours so he could also have Friday night off. This is fine to do, but you want to keep your study time up to at least 40 hours a week. Going much below this will simply cause headaches later.

In fact, if you want to do your best, you should treat law school like a job. Come to school at the same time every day, leave at the same time every day, and make sure you put those hours in. Many first year law students make the mistake of studying like they did in undergrad, which was likely nowhere near this many hours, and is nowhere near enough for law school because of the increased workload. Treating law school like a job will make your life a lot easier, even if you've never had a full-

time job before. You'll get used to the routine, and you'll be a lot more effective with the use of your time. Treating law school like a job will also prepare you for the demands of law practice.

iii. Using Your Time Effectively

As stated above, you must be able to do four things during the course of the semester: go to class, read and brief, outline, and do practice questions. The amount of time you take per week on each activity will vary from week to week. For example, you will read more in the first few weeks than you will do practice questions because you don't know enough law yet to make practice questions worthwhile. Consequently, for Week One, your schedule will only include going to class, going to Academic Success events or tutoring hours, going over notes, and reading and briefing. More things will be added as the weeks progress.

Many students feel overwhelmed by the amount of work in law school. They are tempted to skip voluntary things, like Academic Success Workshops and tutoring. But one of the things that has become very apparent to me over the years is that the best-performing students take advantage of Academic Success Programs and tutoring, and the worst-performing students rarely go. It's a good idea to incorporate these programs into your set schedule.

You also need to sleep enough. Lack of sleep impairs your cognitive and emotional strength. Keep the same bedtime and wakeup time every day. Your mind will be spinning from information and stress, so you want to train yourself to relax and sleep soundly.

Finally, you need to get at least three hours of exercise a week because there is a huge link between mind, memory, mood, and exercise. Pick something fun, and don't look at it as a chance to drop the 20 pounds that have been bothering you, because you don't need any more stressors in your life. A lot of people run. Walking, dance classes, weight-lifting—whatever is a release for you. I try to swim every day. In law school, I boxed, which was good because I could hit people.

Play to your strengths on your schedule. If you are not a morning person, don't schedule your most difficult tasks in the

morning. If you have to go to sleep at nine, don't schedule your reading at night.

Finally, you may find a schedule this full a little bit constricting. Don't worry: you will be evaluating your schedule every week as the semester goes on, so you can make adjustments. Once you start following it, you'll likely discover that a detailed schedule actually frees up more time because you won't be wasting time wondering what you should do next.

Week One's schedule might break out like this, depending on what classes you are taking, when you want your free time to be, your sleeping habits, and when you most feel like doing work:

4 credit Criminal Law—10 hours reading and briefing,
1 hour on notes, 1 hour tutoring session (if your
school has tutoring)

4 credit Torts Law—10 hours reading and briefing,
1 hour on notes, 1 hour tutoring session (if your
school has tutoring)

4 credit Contracts Law—10 hours reading and briefing,
1 hour on notes, 1 hour tutoring session (if your
school has tutoring)

3 credit Legal Writing—9 hours on assigned tasks*

First Week Academic Success Workshop

Three hours exercise

Bed by 11, up at 7

Removal of a few hours for meaningful break time**

* This schedule assumes your work in Legal Writing is more hands-on research and writing, and that you won't need to be putting together an outline for a final exam in that course. Consequently, specific time to review your notes is not set aside. You also want to specifically note when Legal Writing assignments are due. By setting time aside to work on Legal Writing each week, you shouldn't need to do an immense amount of work right before an assignment is due. Pulling all-nighters the night before might be how you wrote your papers in undergraduate, but trying to pull this off in law school is a stressful mistake.

** Friday Night—In this example, the student really wanted Friday night off, so he took away the work he had blocked off there. He removed 3 ½ hours of study, so he needs to be aware of this when he is doing his work. It still leaves him with over 40 hours of study time per week.

B. How to Put Your Schedule Together

1. Use the blank schedule provided.
2. Fill in your school's hourly breakdowns on the side (some schools start every class on the hour, some provide 10 minute breaks—the included sample schedule has a school day that begins at 9:10 a.m. with 10-minute breaks between classes).
3. Fill in the times of your class meetings, the time of that week's Academic Success Workshop, and the times of tutoring (and any other mandatory things your school might have in Week One).
4. Fill in the time you want to get up everyday
5. Fill in the time you want to go to bed everyday
6. Fill in your three hours of exercise
7. Fill in your study times. In general, you may want to have some cushion between your class reading and the class itself. For example, if you have a 10 o'clock civil procedure class and you are planning to do your reading for that specific class day from 8–10 that morning, what happens if your car breaks down or your alarm doesn't go off? You need to try to insulate yourself from the consequences of this kind of mishap, because it will happen eventually. Set up your schedule so problems don't turn into calamities. Week One will only include Reading, Briefing, and Reviewing Your Notes. Other tasks will be added as the semester goes on.
8. Remove a few hours to get some decent time off while still keeping over 40 hours a week of study time (probably for evenings at the end of the week).
9. All the blank time is your time. Do laundry, relax, etc. However, make sure you separate your necessities from your relaxing, or your relaxing is unlikely to occur in any meaningful way.

Here's what a sample Week One schedule might look like (a blank schedule is provided at the end of the book, so you can make photocopies to fill out). Remember that a few hours have been removed to free up Friday night, so the study times do not

add up exactly to the suggested time. However, all classes are given equivalent coverage:

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
7:00-9:00	Breakfast and exercise	Breakfast	Breakfast and exercise	Breakfast	Breakfast and exercise		
9:10-10:10	Torts Class	Torts Class	Torts Class	Torts Class	Read and Brief Contracts	Legal Writing Homework	Read and Brief Torts
10:20-11:20	15 min. Go over Torts Notes/Read and Brief Torts	Legal Writing Class	15 min. Go over Torts Notes/Read and Brief Torts	Legal Writing Class	Legal Writing Class	Legal Writing Homework	Read and Brief Torts
11:30-12:30	Read and Brief Criminal Law	15 min. Go over Torts Notes/Read and Brief Torts	Read and Brief Criminal Law	15 min. Go over Torts Notes/Read and Brief Torts	Legal Writing Homework	Legal Writing Homework	Read and Brief Torts
12:40-1:40	Read and Brief Criminal Law/Lunch	Academic Success Meeting/Lunch	Read and Brief Criminal Law/Lunch	Club Meeting/Lunch	Legal Writing Homework/Lunch	Read and Brief Contracts/Lunch	
2:00-3:00	Contracts Class	Contracts Class	Contracts Class	Contracts Class	Legal Writing Homework	Read and Brief Contracts	
3:10-4:10	Criminal Law Class	Criminal Law Class	Criminal Law Class	Criminal Law Class	Legal Writing Homework		
4:20-5:20	Tutoring for Contracts	15 min. Go over Contracts Notes/Read and Brief Contracts	Tutoring for Torts	Tutoring for Criminal Law	Legal Writing Homework		
5:30-7:30	Dinner	Dinner	Dinner	Dinner	Dinner		
7:30-9:00	15 min. Go over Contracts Notes/Read and Brief Contracts	15 min. Go over Criminal Law Notes/Read and Brief Criminal Law	15 min. Go over Contracts Notes/Read and Brief Contracts	15 min. Go over Contracts Notes/Read and Brief Contracts			Read and Brief Torts
9:00-11:00	15 min. Go over Criminal Law Notes/Read and Brief Criminal Law	Read and Brief Contracts	15 min. Go over Criminal Law Notes/Read and Brief Criminal Law	15 min. Go over Criminal Law Notes/Read and Brief Criminal Law			Read and Brief Torts

**C. Now Try to Follow the Schedule to the Letter
(You Will Evaluate How Effective It Was Next Week)**

Don't panic if you get off schedule, but try to stick to it as much as possible so you can see if it actually works for you. To keep on track, a good idea is to use the stopwatch on your phone or computer to set an alarm at the beginning of each set task (for example, a 15-minute alarm when you sit down for "15 minutes of going over Contract notes"). The alarm will help you stay focused and remind you to move on. Many people I know actually invest in a cooking timer for this purpose.

D. Alternative Schedule Idea

There is enough stress in law school without your schedule adding to it, so if the above scheduling suggestion is too intimidating, you can try a "To-Do List" Schedule. I believe the set schedule suggested above is actually the most effective, so at least give it a shot before you try another version.

For the "To-Do List" Schedule, simply make a list every day of all the tasks that should be completed that day and the amount of time that should be allotted to it. Then scratch out each task as you complete it. Do the tasks in the amounts of free time you have. For example, if you have a 30-minute break, you might be able to read a case. If you've allotted two hours to reading that day, you can cross out the "two hours" and replace it with "1.5."

Importantly, in making a "To-Do List" Schedule, you still have to make sure you divide your time up in the same way as a set schedule, with time specifically set aside for reading and briefing, outlining, practice questions, and reviewing your notes. A lot of people get through life with lists, and there is something very satisfying about scratching something off a to-do list.

The upsides to the "To-Do List" Schedule are that it's more flexible, it's probably less imposing, and it's a good way of using all the little breaks that come up during the day. The downsides are that you don't have a clear structure set for your days and it is a lot easier to procrastinate and end up having to do 30 things at night when you should be sleeping. However, if the set schedule doesn't work for you, you should give the "To-Do List"

Schedule a try. Some people end up doing both, depending on the semester or week.

2. SOCIAL EVENTS

In Week One, there are likely a bunch of social events. You should schedule these as well. It's important to feel socially connected at law school, and those students who do feel socially connected to their law school tend to have higher grades than those who do not.

A. You Need Friends

Friends in law school can help you keep on track, provide you notes when you are sick, and laugh with you at whatever goofy thing happened in class that day. They are invaluable for your success and make the entire process much easier.

B. Significant Others

"Significant others" includes romantic significant others, friends, and family. If you have a significant other who is not in law school, he or she will likely find you and your law school friends hard to be around. He or she won't get your jokes about criminal law or know who you are talking about when you reference someone from school. He or she might not share your interest in the law.

Most law schools have several events at the beginning of law school where significant others who are not in law school can meet. Some schools even have societies or clubs. Especially if he or she is a romantic significant other or family member who travelled with you to a new city so you can go to school, helping him or her find some non-law student friends of his or her own can make the whole experience easier for both of you.

C. You'll Get Weird

Law school is stressful. You see the same people every day, go to the same classes, and wrestle with the same difficult concepts. You need to blow off some steam and bond with others going through the same process.

D. These People Will Know You in Practice

You will likely know many people in your law school class for the rest of your life. They will be judges, partners, defenders, corporate counsel, and professors in your area, and you want to make sure you are on good terms with all of them. Later in your career, you want to make sure you have a good reputation with them and you might even be looking to them for a job or a referral.

E. A Caveat—Don't Overdo It

You can't do well in law school if you socialize like you did your senior year of college. Many students who do poorly in their first year go into law school as if law school were Senior Year 2.0. Be reasonable with your time. Realize you can't get wrecked on Wednesday night and understand the Erie Doctrine on Thursday morning. Complete your law school responsibilities first (this is where your schedule is key).

3. HOW TO READ A CASE □

A casebook is primarily made up of court opinions, which are primary sources. Unlike information in the textbooks you may have had in undergrad, the information in your casebooks is not already interpreted. The meaning and importance of the case is not explained. It might be edited for emphasis or cut up for space, but that's about it. Consequently, you can't read a case like a short story or magazine article.

First, make sure you read when you are actually feeling awake. Otherwise, it will take you twice as long. This might seem obvious, but in practice it's not. Many times, students schedule their reading at night like they were reading a book for fun instead of trying to learn information for a class.

Also, think seriously about where you are doing your reading. Avoid reading on your bed, because your brain is going to start equating your bed with study time, which is not going to allow you to relax and sleep. The law library is OK for some, but terrible for others. All your new friends are there—how distracting do you think they will be? Coffee shops can be good, as are other libraries on campus where you don't know anyone.

It really depends on finding the place where it's easiest for you to focus.

Second, before you read the case, notice where it is in the casebook or syllabus because its location will tell you what concept the case represents in your class. When professors decide to teach a class, they go through all the available casebooks (there are usually a lot) and determine which casebook does the best job of clearly showing examples of all the concepts they want to cover. You should use this selection to your advantage. For example, if *McGilliguddy v. Mackadoodle* is listed in the section titled "BATTERY," that case is probably there to either give you the definition of battery, an exception to battery, an example of battery, a historical view of battery, or a tweak to the primary rule for battery.

Third, go to the end of the case and scan up from the bottom until you find the line that says "we hold" or "the holding is" or "the best rule is" or something to that effect. It may not always be clearly marked, but you will get better at finding it as you read more cases. This line or text is the holding of the case. The holding is the court's decision regarding the question posed by the case. You can read much faster and more effectively if you already know what the holding is from the beginning.

When you are reading cases, you need to keep your reading within the time you scheduled for it. Consequently, you need to learn the most efficient way to pull a case apart and get to the parts you are actually going to use in class and on the exam. Poor-performing students often tell me that they read each case "three or four times." You shouldn't have to do that. You also don't have time for it. You'll get better and faster at reading as the semester progresses, so if the reading is slow now, don't worry.

Here is an example of a case in a casebook with notes. Although it is based on a real case, I made it up for illustrative purposes. Throughout this book I will use made-up cases to make sure you are focusing on your professors' readings of the actual cases in class, writing your own briefs and outlines, and using this book primarily as a model for your own work.

EXAMPLE OF A CASE IN A CASEBOOK

Chapter 1—Intentional Interference with Person or Chattels¹A. Mistake²

Morriss v. West,³ 35 S.C.App. 250 (1886)⁴

STIPE, J.⁵ delivered the opinion of the court.

West was out hunting for wolves. As he was hunting, he crossed onto Morriss's land. Morriss had a dog who bore a striking resemblance to a wolf. West, absolutely believing the dog was a wolf, shot the dog. Morriss sued for damages. At trial, the court ruled in favor of Morriss, finding that West intentionally shot the dog whether he was acting under a mistake or not. West appealed to the South Carolina Court of Appeals, arguing his good faith mistake meant he could not be liable for shooting Morriss's dog.⁶

FACTS

West rode his horse, Babe, to Edisto Island. He was accompanied by Magnum, a local banker of good standing, and Tweedy, a ne'er-do-well from Chicago. The three men also had five hunting dogs. The men intended to hunt and kill wolves that had been spotted near several local farms. Several goats and sheep had gone missing, and a calf had been severely injured. The men crossed through private property until they reached a beach. The beach was owned by Morriss, although the men believed they were on unowned land. While the men were eating a dinner of crab legs and beer, a large animal broke out of the scrub and started running down the beach toward them. The sun was behind the animal, but the men could still make out the shape of something that looked very much like a wolf. The men released their dogs, and the dogs ran toward the animal, chasing it. The animal

¹ From the title of the chapter, you should infer this case is likely to deal with issues of intent. Also, if you don't know what a "chattel" is, you should look it up—the professor will certainly ask.

² Mistake will be the focus of the case, so pay particular attention to anything that has to do with mistakes or the reasons for making a mistake.

³ You will only need to know the name of the case on your exam if your professor says he or she wants to see case names on the exam or if it is a very important case and you spent a lot of time on it in class. Also, if the case is famous, like *Brown v. Board of Education* or *Marbury v. Madison*, you should probably know the name as well.

⁴ On the exam, you won't need to know the case cites. It would be unimaginably cruel if professors expected you to memorize them.

⁵ In class, you might be asked who delivered the opinion of the court—especially at the beginning, when your professors are making sure you can find your way around a case. But you won't need to know it on the exam (except in Con Law or in the case of special tests such as the Learned Hand test—your professor will note these).

⁶ This is the procedural history, or how the case ended up in this particular court. At the beginning of the semester, or in civil procedure, you'll be asked about this a lot.

turned around and Tweedy yelled, "That's a wolf, by golly!" West managed to get on his horse first and pursued the dogs and the "wolf" for a mile along the beach. The dogs eventually cornered the "wolf" in a briar bramble, and West shot it with his rifle. At that moment, Morriss arrived on his horse and declared that West had actually shot his dog, Petunia. Petunia was a very large (120-pound) mixed-breed animal that looked very much like a wolf. Morriss sued West for damages.⁷

DISCUSSION

The question submitted to us is whether West, because of his true but mistaken belief that he was shooting a wolf, could be found liable for shooting Morriss's dog.⁸ If we take refuge in the ancient writers who wrote upon general principles of law, the judgment should be affirmed. Learned commentators have made several learned statements in this area. Judge Huffle⁹ notes good faith mistakes do not insulate one from liability. See *Malk v. Brown*, 345 S.C. 23 (1883) (man accidentally euthanized the wrong horse). But Judge Slyth notes that *actus non facit reum nisi mens sit rea*.¹⁰ Importantly, we are also concerned about the dangerous nature of wolves, and would like to encourage their eradication. However, we want to make sure that society's clear and justified zeal in eradicating such dangerous beasts does not encourage hunters to shoot, trap, or hunt without the necessary care. Under these circumstances, a clear rule that is not dependent upon the unknown depths of a man's heart is preferable. Otherwise, men could escape all types of liability simply by claiming they made a mistake, when it may be impossible to tell whether that mistake was made in good faith.¹¹ Also, West would be profiting from his wrong doing, in that he got to enjoy the thrill of the hunt. Consequently, we hold¹² that a

⁷ Because we looked at the holding first, we know the only facts we care about are those facts that could influence that decision—hunting wolf, seeing dog that looks like wolf, shooting dog, what West was thinking when he shot dog, how justified he may have been, etc.

⁸ Nice sentence to use in class—"The issue here is whether West, because of his true but mistaken belief that he was shooting a wolf, could be found liable for shooting Morriss's dog." The case holding will be the answer to this.

⁹ Cases, in explaining their reasoning, will likely refer to older commentators and cases.

¹⁰ If you don't understand a word or phrase, make sure you look it up. A professor will probably ask the question in class. The most expedient thing would be to Google it, although a standard law dictionary will have any terms you need.

¹¹ The reason for the court's rule. In class, it will be important to be able to explain why the court chose a certain rule.

¹² The first thing you should do when you read a case is see where it is in the case book (here, *Intentional Interference with Persons or Chattel*). The second thing you should do, before you read anything else, is find the holding (which will usually be denoted by some version of the word "hold.") This text will be the rule provided by the case. If you know this first, you can be much quicker when you read through the rest of the facts and discussion because you know you primarily care about language relevant

person is liable for the damages caused by his mistake, notwithstanding the fact he was acting in good faith. Thus, West is liable for the value of the dog.

DISSENT

BOWE, J.

I must respectfully dissent with my colleagues. In shooting the dog, West believed he was doing God's work and protecting the local populace. He should not be penalized because a local landowner chose to have a pet that looked very much like a wolf. In choosing to have a dog that looked like a wolf, *in an area known for wolf attacks*, Morriss invited West's actions upon himself and put the local populace, himself, and West unnecessarily at risk. A better rule would be to allow a *person* to escape liability in situations such as here where the mistake was reasonable and in good faith.¹³

NOTES

1. Here, the majority noted that the dog closely resembled a wolf. Would it have changed their decision if the dog didn't look much like a wolf?¹⁴
2. In situations where a party is claiming self-defense or other privilege, courts look at the reasonableness of the belief under the totality of the circumstances. See *Murp v. Mighte*, 345 U.S. 34 (1977) (landowner thought plaintiff was a home invader who had broken into his property).¹⁵

4. BRIEF EACH CASE

A. What's the Point of a Case Brief?

The brief is a short document you create that allows you to tear apart the case into something manageable and useful. Many people might tell you they don't brief for class. However, especially at the beginning of the school year, not briefing is a

to this decision (for example, the fact West shot the dog with a rifle is immaterial, unless the holding had said something regarding shooting the animal with a particular type of weapon). Here, the rule and the holding are the same, but in other instances, a student may need to distinguish between a generally applicable rule and a fact-specific holding.

¹³ You should always read dissents. In class, a professor will often ask questions about why a majority rule might not work. You'll want to know the potential reasons why. Also, for some difficult cases, the dissent may do a better job of explaining the case holding than the majority decision does. Finally, the dissent in one case often becomes the majority rule in a later case.

¹⁴ Possible hypothetical or question for a professor to pose—try to make a reasoned decision about it before you get to class. Could be used on the exam.

¹⁵ This note has provided you with an alternative situation that you should know—basically, what happens when someone makes a mistake and still claims self-defense or privilege.

major mistake. As you get more comfortable, you might move to book-briefing, which will be discussed in Week 11.

There are three purposes for making a case brief. First, it is a nice “cheat sheet” you can read if you get called on so you aren’t in a panic flipping through your casebook pages. Second, it’s a page you can mark up as you’re following the class discussion. For example, you might find that your idea of the case’s holding was wrong. If so, you can easily fix it on the brief, creating a record of the areas you may have to do more work in. Third, it forces you to test yourself to see if you actually understand what is going on. If the case brief is in front of you, you will know if your idea of the holding was wrong, or if you failed to note relevant facts, or if you didn’t follow the court’s reasoning. Without having done the case brief, it is too easy to sit in class, listen to the lecture, and feel like you “got” the case when you really didn’t. Remember the famous saying, “Everyone has an ‘A’ until the final.” Doing your case briefs can alert you to any problems early, which is essential if you want to do your best in law school.

B. What Parts You’ll Need for Class

Especially at the beginning, you would do well to use the “classic” elements of a case brief. If you are required to write a brief for Legal Writing or another class to turn in, your professor might require different elements, but they should have many core similarities. Here’s a brief based on the case above that uses the classic elements. As you will notice, it is brief. Remember, this case is fictional.

SAMPLE BRIEF OF EXAMPLE CASE

Case Name¹: *Morriss v. West*, Page 35 of casebook (1886).

Facts²: West mistakenly shot Morriss's dog because he believed it was a wolf.

Procedural History³: At trial, the court ruled in favor of Morriss, finding that West intentionally shot the dog whether he was acting under a mistake or not. West appealed to the South Carolina Court of Appeals, arguing his good faith mistake meant he could not be liable for shooting Morriss's dog.

Issue⁴: Is a person liable for ~~loss~~⁴ of a dog if that person shoots it under the mistaken but good faith belief that it is a wolf?

Holding⁵: Yes. Even if the person shoots the dog under the mistaken but good faith belief that it was a wolf, he or she is still liable because he or she intended to shoot the animal.

Reasoning⁶: Majority rule points out it would be impossible to know if someone really made a good faith mistake. Also, it could be too easy to avoid liability by claiming mistake, and a person shouldn't profit from wrongdoing. Finally, we want hunters to be careful. **LATIN**: The act does not make a person guilty unless the mind should be guilty. **CHATTEL**: a personal possession.

Dissent/Concurrence⁷: Dissent concerned that majority rule fails to take into account reasonableness and social utility of West's actions. Also feels that Morriss took unnecessary risk of having a dog that looked like a wolf in an area known for wolf attacks.

C. Parts You'll Need for Exam

When you start creating your outlines to study for exams, you will usually only need to know three things about the above case:

-
- ¹ The name of the case.
 - ² The facts important to the court's decision.
 - ³ How the case got to be in this court.
 - ⁴ What question is the court trying to answer?
 - ⁵ The court's answer to that question.
 - ⁶ Why did the court think this was a good answer?
 - ⁷ Commentary from other judges involved in the case.

1. The Specific Legal Rule from the Case—A person is still liable for damaging someone else's person or property even if he or she made a good faith mistake in doing so.

2. The Court's Considerations in Making that Decision—Impossible to know what people are thinking, too easy to avoid liability, wrongdoer would profit, want people to be careful.

3. A One-Sentence Explanation of the Facts of the Case—Man shoots dog because of good faith belief it was a wolf.

Week 12's explanation of how to write a good exam will show you where these three parts fit in your exam answers.

5. HOW TO TAKE NOTES

A. Taking Your Notes

Because law school is intimidating and students are unsure of what they are going to need to know on an exam, many students take notes like stenographers. They try to write down absolutely everything anyone says in class. Often, this means they are spending more time typing or writing than actually listening to the discussion in class. However, it is important that you listen and follow along with the discussion.

Whether you type your notes or write them is up to you, although some professors do not allow computers in the classroom because of how distracting they can be. Do whatever is most comfortable, although I would recommend handwriting your notes. There are several reasons: because you physically can't write fast enough to write every word, it forces you to listen more critically so you can discern what to keep; you won't have the computer's temptation to instant message or look at baseball scores; you can more easily draw arrows and diagrams; and you honestly don't want to be writing down absolutely every word. But if you aren't accustomed to handwriting your notes or you can't read your handwriting, you're probably better off typing them.

B. Reviewing Your Notes

The most important thing to do for your law school success is to review your notes after class. As set out in the sample schedule, immediately after class you should spend 10–15

minutes going over your notes. If you don't go over them immediately after class, you're likely to forget which things you wanted to mark or clarify. Human memory breaks down fairly quickly over 24 hours, so you cannot wait until the end of the week or when you are working on outlines to check and annotate your notes. Think about how many mornings you may have woken up saying, "Wow, that was a cool dream!" and forgotten what the dream was about by lunchtime.

When you go over notes, you want to do a few things. First, fill in any places where you might have zoned out during the lecture. Everyone zones out sometimes. So, if there was a moment where your professor said, "There are four elements to burglary," and you spaced out on elements two and three, make sure you ask a friend, ask the professor, or check some other resource to fill that space in. If you wait until later in the semester, it will be a lot harder to remember that you missed this information.

Second, highlight and mark anything the professor indicated as important. A professor might be clear about this. He or she might say, "This is really important" or write it up on the board. A professor might specifically tell you how he or she wants to see answers on the exam.

A professor might indicate what is important in other ways. For example, you can figure out a lot of what is coming on the exam by "figuring out" your professor. When I was in law school, I got an "A" in one class because I noticed that every time the professor got really excited about something, he would jump like he'd suddenly fallen into an imaginary pothole. In my notes, I put stars next to everything he was saying whenever he did this. The "stuff he said in the hole" turned out to be the majority of the exam. If your professor gets really animated when talking about alienage and public functions or the parole evidence rule, you can bet it is coming on the exam. Mark this kind of thing when you go over your notes as well.

Third, make sure you mark clearly anything that you wrote down that was said by a fellow student and whether it was praised by the professor. You want to keep this stuff straight, and any arguments or thoughts that a professor praised are something you probably want to use on the exam.

Fourth, highlight the main ideas of the lecture and highlight any hypos given. "Hypos" are the hypothetical situations a professor might ask about in class. For example, "What if instead of cigar smoke, a person blew stinky tuna breath in someone else's face? Would that be offensive?" Hypos are likely previews of questions on the exam. Going through your notes will be the first step in your studying, and will be really helpful when you start your Outlines in Week Three.

Here's an example of what your notes might look like after you've looked at them (the bolded sections are things I marked or underlined while reviewing my notes after class). Remember this case is fictional:

Date: August 15

Reading today: *Morriss*

Good faith mistake—does it insulate from liability—how does this relate to Intent?

Reflects importance of intent in law (generally don't punish people for unavoidable outcomes)—**POLICY**

****Study Hint (from prof)**—memorize rules/don't need to know case names/cites

What if a doctor operated on wrong arm? Same analysis? What if it actually helped arm? What if mistake fixed by the doctor's mistake (for example, the intake nurse marked wrong arm and doctor's mistake led to operating on right one)?—**HYPO**

Student comment—court concerned with wrongful profit—no wrongful profit in this case (**prof liked this**)

Prof hypo—what if *Morriss* intended to trick West? What if he was using dog as decoy to protect wolves?

West still intended to shoot dog—majority's concerns still apply

What if social good extremely high?

How does this affect issues of privilege, like self-defense?

In NOTES in Casebook

Social issue—how important is what wrongdoer was attempting to do?

Student Comment—Police officers who reasonably believe guy has gun can arrest

Student Comment—If guy hunting turkeys and shot pet one, would minority even care—turkeys aren't dangerous

****Exam Hint (from prof)**—make sure you use **SPECIFIC FACTS** in answer—reasonableness/type of animal could make difference

Dog—not situation where a human being is hurt

Intent can be broken down into: **SPACED OUT**—ask friend for notes

Many old citations in this case—Socrates, etc.—old area of law—**Professor Bill's Guide to Tort Law** not bad to look at **LOOK FOR THIS IN LIBRARY/ASK ACADEMIC SUCCESS—STUDENT ALSO SAID THE EVERYDAY EXAMPLES by PROF TRISSLER** was worth getting practice questions from—check out

6. HOW TO APPROACH LEGAL WRITING

First, while working on a paper the day before it is due may have worked for you in undergrad, it's a horrible habit in Legal Writing. The penalty for blowing a deadline is likely much worse, which mirrors what a judge would do to you for missing a deadline. Start your assignments early.

Second, the writing habits you might have gotten away with in your undergrad career might really hurt you now. It is fairly likely you are going to have to radically change your writing organization from "English assignment" to IRAC, CREAC, or whatever legal form you learn in class. This transition takes time, and you need to give yourself enough time for it.

Third, good writing (in any form, whether it be a memo or a poem) is really about good editing. Thus, you **MUST** do multiple drafts. If you turn in a first draft for an assignment, you are likely to be at the bottom of the grading curve.

Fourth, you need to take advantage of the opportunities for someone else to look at your drafts. Most schools only allow

certain people to look at your drafts, or you could face an honor code violation. Consequently, you need to plan ahead so you can show it to your professor, your tutor, or whomever you are allowed to show it to. You can't do this if you run right up to the deadline.

Fifth, you'll have a much better product if you do it over a long period of time. By working over a period of time, you'll get a chance to think about what you write, look at it with new eyes, and protect your schedule and sanity. Also, it will be less "painful" if you write a paper in small chunks of a few hours at a time over a couple of weeks rather than try to write it in a 18-hour binge in a weekend. The more you put it off, and the bigger the task is, the more you will procrastinate.

Finally, Legal Writing can take over your life to the detriment of your other classes if you don't manage your time wisely. It can also be the knife in your GPA if you do poorly. Your professor's feedback will show you what you need to do to earn a good grade. Legal Writing is the one class that is guaranteed not to have a single cumulative exam at the end, and there is no reason you shouldn't do well.