

Introduction to Legal Skills: Legal Writing
Course Materials¹
Fall 2019

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¹ These materials are adapted from materials developed by Professor Barbara A. Kalinowski, Thomas M. Cooley Law School, and submitted to the Legal Writing Institute Idea Bank in 2012.

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Syllabus

Introduction to Legal Skills: Legal Writing

August 27-August 30, 2019
September 24, 2019 – 12:45-1:45 p.m.

Required Reading:

Textbook: Richard C. Wydick & Amy E. Sloan, *Plain English for Lawyers* (6th ed. 2019) (*Plain English*).

A course packet containing the materials required for the *Introduction to Legal Skills: Legal Writing* class will be posted on the Introduction to Legal Skills website – http://faculty.cwsl.edu/ils/ils_fall.asp - in early August.

Core Grammar Tutorial - You should purchase Core Grammar (www.coregrammarforlawyers.com). However, you cannot begin Core Grammar until you receive an access code that is unique to your Legal Skills I Professor. Your Legal Skills I Professor will give you the code during the first week of Legal Skills I classes. Do not email your Professor for the code. You will use the code to complete the pre-test. Do not use a code from another section. If you do so, you will not receive credit for completing this assignment. Section E of Core Grammar relates to *Bluebook* citations, which we know you have not learned. You should complete these questions to the best of your ability so you have a baseline score to judge against your final score.

Highly Recommended Reading:

Ruta K. Stropus & Charlotte D. Taylor, *Bridging the Gap Between College and Law School: Strategies for Success* (3d ed. 2014). Your professors highly recommend that you read this book before you begin law school.

You should complete the written *Plain English* exercises, listed below, before each class. You will incorporate into your writing assignments the skills you learn by doing the *Plain English* exercises. **The concepts you learn from doing these exercises will be included in a multiple-choice exam on Friday.** In addition, your Legal Skills Professor will expect you to be familiar with the principles covered by these exercises when you begin your Legal Skills I course.

Please bring paper and a pen to each Legal Writing class.

Please note the following:

1. The Introduction to Legal Skills course counts as 10% of your Legal Skills I grade.
2. Both portions of the Introduction to Legal Skills class provide an important foundation for your legal studies. Thus, you are required to pass both section of the course – Legal Writing and Legal Analysis – to pass the entire course. .
3. You have to be present to learn the lessons. If you miss a class in the Introduction to Legal Skills course, whether in the Legal Writing portion or the Legal Analysis portion, the absence will count as an absence in your Legal Skills I course.

Date	Assignment
Before Class Begins	Your Legal Writing Professors highly recommend that you begin reading the recommended text, <i>Bridging the Gap Between College and Law School: Strategies for Success</i> , before Intro to Legal Skills begins.
Sunday, August 25, by 5 p.m.	<p>Complete the First Writing Assignment, which you will find on the course website -- http://faculty.cwsl.edu/ils/ils_fall.asp.</p> <p>Email the assignment to your Introduction to Legal Skills: Legal Writing Professor and bring a paper copy to class on Tuesday. Your Professor's email address can be found at the bottom of the assignment and on the CWSL website.</p> <p>Your professors also encourage you to begin working on the <i>Plain English</i> exercises.</p>
Tuesday, August 27	<p>Bring to class your first writing assignment and the course materials you will find posted on the course website.</p> <p>In class: We will use your first writing assignment to introduce the foundations of legal writing: IRAC and IREAC. We will introduce rule synthesis through an in class exercise.</p> <p>Tuesday evening: Read Statute 1.1001, the Wilson police report, the court's opinion in <i>People v. Wilson</i>, and the Andrews police report. These materials are found in the course materials packet posted to the course website. List the elements of the offense discussed in the materials and draft a rule. Bring your work to Wednesday's class.</p> <p>In addition, Tuesday evening read <i>Plain English</i>: pages 3 – 70, and complete the following exercises: p. 10: 1-3; pp. 12-13: 2, 3; p. 15: 1, 3, 5, 6; p. 18: 1, 5; pp. 25-26: 1, 3, 5; p. 28: 1, 2; pp. 31-32: 1, 5, 6; p. 37: 2; pp. 41-42: 1, 3; p. 46: 1; pp. 49-50: 4, 5; pp. 63-64: 1, 4; pp. 69-70: 2, 4. (If you have time, your professors encourage you complete more exercises.)</p>

<p>Wednesday, August 28</p>	<p>Bring to class the materials you read last evening in the course materials packet, the elements you listed, and the rule you synthesized.</p> <p>In class: Using the work you completed last evening, we will work on a case matrix, which will be used to synthesize a rule for the case. In-class IRAC writing assignment.</p> <p>Wednesday evening: Complete the case matrix using the cases found in the course materials packet posted on the website: <i>People v. Davis</i> and <i>People v. Arroyo</i>. Synthesize a rule from these two cases. Bring the matrix and rule to Thursday's class.</p> <p>In addition, Wednesday evening read <i>Plain English</i>, pages 71-117, and complete the following exercises: pp. 73-74: 2 (a, b); p. 75: 1, 3; p. 76: 1, 3; p. 80: 2 (a-d); p. 84: 1; pp. 84-85: 1, 10; pp. 91-92: 1, 4; pp. 93-94: 1, 3; p. 97: 1, 2; p. 103: 1-4; pp. 103-104: 1, 2, 4, 5, 6, 10.. (If you have time, your professors encourage you to complete more exercises.)</p>
<p>Thursday, August 29</p>	<p>Bring to class the cases, the case matrix you completed last evening, and the rule you synthesized.</p> <p>In class, we will review the case matrix. You will write a new rule from the cases. You will apply the rule to a new set of facts. We will review exam taking techniques, both essay and multiple choice.</p> <p>Thursday night review the <i>Plain English</i> exercises you have completed to date. Complete additional exercises, if time permits.</p> <p>Time permitting, please complete the course evaluation before you come to class on Friday.</p>

<p>Friday, August 30</p>	<p>Bring your cases, case matrix, and rule to class.</p> <p>In class you will take a multiple choice exam and a written exam. The multiple choice exam will be based on the <i>Plain English</i> exercises and on the rule synthesis exercises you have completed during the week. The writing portion of the exam will ask you to apply the statute and rule you synthesized to a new fact pattern.</p>
<p>Tuesday, September 24 12:45-1:45 p.m.</p> <p>Intro § 1A & § 1B – Room 2B Intro § 2A & § 2B – Room LH 1 Intro § 3A & § 3B – Room LH 2</p>	<p>Feedback session.</p> <p>Report to your assigned rooms to receive feedback on the final assignments from Introduction to Legal Skills. This class, like all Introduction to Legal Skills classes, is required. Attendance will be taken. If you miss the class, the absence will be counted as an absence in your Legal Skills I course. Remember, the section numbers correspond to your Introduction to Legal Skills section, not your Legal Skills I section.</p>

Introduction to Legal Skills: Legal Writing

First Writing Assignment: Due Sunday, August 25, 5:00 p.m.

Welcome to Introduction to Legal Skills: Legal Writing. The course syllabus and other materials for the Legal Writing portion of the course are posted on the Introduction to Legal Skills webpage -- http://faculty.cwsl.edu/ils/ils_fall.asp. Please read the syllabus carefully. You have one assignment to complete for the Legal Writing portion of Introduction to Legal Skills before you begin class on August 27. The assignment is due by 5:00 p.m., Sunday, August 25.

Read the directions carefully for the first writing assignment. Limit yourself to one hour, which includes time to think and write.

Your first writing assignment is based on the following law and facts.² The police have arrested Francis Fuego for arson. The police have sent the case to the district attorney's office. The district attorney (DA) must now decide what, if any, charges to file against Ms. Fuego.

The police investigation showed that Ms. Fuego threw a match into a wastepaper basket. The basket smoldered. Smoke blackened the walls, but the walls were not charred. The heat from the fire activated the fire sprinklers, which doused the fire.

The leading case in your jurisdiction is *People v. Blaze*. In *Blaze*, the court identified a four element test for arson: 1) intentional or reckless disregard of an apparent risk, 2) burning, 3) of a dwelling, 4) of another. The only element at issue in *Blaze* was the burning element. There, the defendant started a fire that caused the charring of two walls in a building. The court held that charring was sufficient to satisfy the burning element. The court reasoned that some damage to the structure caused by fire is required; substantial damage or destruction of the structure is not required to commit arson.

Using the *Blaze* case, the DA has asked you to analyze whether the facts of Ms. Fuego's case meet the burning element, and thus whether the DA should charge Ms. Fuego with arson. Analyze the burning element only; assume the DA can prove the remaining three elements.

Directions for submitting your answer:

Double-space your answer and use at least a Times New Roman 12 point font.

Remember to think and write for no more than one hour.

Place your name and your Intro to Legal Skills section number on your paper.

Email your answer to your Introduction to Legal Skills: Legal Writing Professor, by 5:00 p.m., Sunday, August 25.

When you email the assignment, remember you are writing a professional email, not a text message. Use a proper salutation and proper grammar.

In the email subject line write Intro to Legal Skills First Assignment.

² This fact pattern is adapted from a practice exercise found in David S. Romantz & Kathleen Elliott Vinson, *Legal Analysis: The Fundamental Skill* 61 (2d ed. 2009).

Please note the section numbers next to the professors' names denote the section numbers assigned to the Introduction to Legal Skills course, not the Legal Skills I course.

Introduction to Legal Skills: Legal Writing Professors:

Intro Sections 1A & 1B: Professor Thyfault - rthyfault@cwsl.edu

Intro Sections 2A & 2B: Professor Cato - acato@cwsl.edu

Intro Sections 3A & 3B: Professor Todd – mtodd@cwsl.edu

Remember to send the document to your Introduction to Legal Skills: Legal Writing professor only. Do **not** send the document to your Legal Skills I professor or to your Introduction to Legal Skills: Legal Analysis professor.

Bring a paper copy of the assignment to class on Tuesday, August 27.

California Western Statute 1.1001

It is unlawful for any person to sleep in a picnic area of a state-owned park.

What are the elements of this offense?

1. _____

2. _____

3. _____

4. _____

Wilson Police Report

The suspect, Walter Wilson, is a 57-year-old male. Suspect states that he is a visitor who is traveling the world and that he has no home address.

At approximately 4:30 a.m., June 6, 2016, Officer Jones observed the suspect lying on a park bench in the picnic area of Ocean View Park, a park owned and operated by the State of California Western. The suspect's head was on his knapsack and an old blanket was covering his whole body. Although the officer initially thought the suspect was asleep, as she approached, she saw that the suspect's eyes were open. Officer Jones smelled alcohol on the suspect's breath, and the suspect admitted that he had consumed a couple beers at dinner the night before. Suspect stated that he has insomnia and that he usually sleeps only one or two hours per night. He stated that he may have slept for a while on the park bench earlier that night. Officer Jones arrested him, citing the suspect with violating California Western Statute 1.1001.

Date: June 6, 2016

Julie Jones, CWPD Badge No. 0512

People v. Wilson
State Court of Appeal 2018

The defendant, Walter Wilson, has appealed from his conviction for violating California Western Statute 1.1001.

The case arises from an incident that occurred on June 6, 2016. Early in the morning on that day, a police officer observed Wilson lying on a park bench in the picnic area of Ocean View Park. Wilson's head was on his knapsack and a blanket was over his body.

Ocean View Park is a park owned and operated by the State. Picnic tables and grills were in the park, near where Wilson was lying. During the day, people use the park for picnics, to play games, and to relax.

Although the officer initially thought Wilson was asleep, when she approached him she saw that Wilson's eyes were open. Even so, she arrested Wilson, citing him with violating California Western Statute 1.1001. Wilson pleaded not guilty, and the case went to trial. A jury convicted Wilson. Wilson now appeals that conviction.

At trial, Wilson testified that he suffered from insomnia and that he usually slept only one or two hours per night. He also testified that he may have fallen asleep for a short while on the night he was arrested.

Under California Western Statute 1.1001, "it is unlawful for any person to sleep in a picnic area of a state-owned park." Here, the parties agree that Wilson is a person, that Ocean View Park is a state-owned park, and that Wilson was arrested in the picnic area of the park. The only element at issue is whether he was sleeping.

Wilson is correct that the evidence does not support a finding that he was asleep at the time he was arrested. The evidence is, however, consistent with a finding that, at some time that night, he had been asleep on the bench.

Although we find that such evidence is sufficient by itself to uphold the jury's verdict, Wilson's conviction can also be upheld on other grounds. In enacting the statute, the State sought to ensure that its parks would be used only for the purpose for which they were intended: picnic areas of parks are designed as places where people can picnic, play, and relax and not as places for sleeping overnight. Thus, even if Wilson did not actually sleep in the park, he was using the park as a place to sleep, and this is unlawful under the statute. Thus, we affirm the conviction.

Draft a rule from this case.

Under California Western Statute 1.1001, a person is "sleeping" when

_____.

A "picnic area," is -

Add this case to the case matrix at page 10 of these materials.

Andrews Police Report

The suspect is Marsha Andrews, a 40-year-old woman. She is employed by a local bank.

At 1:00 p.m., on July 16, 2019, Officer Myers observed the suspect reclining on the grass at Heritage Park, a park owned and operated by the State. The suspect's eyes were closed, and she was snoring. An empty lunch bag was next to her.

After observing the suspect for about five minutes, the officer approached the suspect and woke her. He then arrested the suspect, citing her for violating California Western Statute 1.1001.

Dated: July 16, 2019

Michael Myers, CWPD Badge # 0601

[Note: As you read the cases below, consider how you can revise the highlighted portions of the sentences using the Wydick principles you have learned.]

Relevant Cases

In the following cases, the defendants were convicted at trial under California Western Statute 1.1001, which prohibits sleeping in designated picnic areas of a state park. On appeal, each case turned on whether the area where the defendant was sleeping was a “picnic area,” a term not defined in the statute.

People v. Davis

Holding: A grassy area of a park where people regularly eat lunches during the work day, but which is not officially designated as a picnic area and has no picnic tables does not constitute a picnic area **for the purposes of** the statute. The statute is not meant to create more designated picnic areas, but to preserve the character of those already in existence. Conviction reversed.

People v. Arroyo

Holding: A grassy area of a downtown park where local businesspeople regularly ate lunches during the work day was considered a picnic area **for the purposes of** the statute, **despite the fact that** it was not officially designated as such. The park manager had installed additional waste containers along the walkway near the grassy area in response to the lunch crowd. The fact that there were no signs designating the picnic area was relevant, but did not overshadow the State's interest in setting aside places for residents and park patrons to eat. Conviction affirmed.

Add these cases to the case matrix on page 10.

Case Law Matrix

Case	Conviction Upheld (Y/N)	Location	Element at Issue	Facts	Rule/ Policy
<i>Wilson</i>					
<i>Davis</i>					
<i>Arroyo</i>					

Rule Synthesis

Using the Case Law Matrix from the preceding page, craft a rule that an attorney could apply to a subsequent case.

In the case where the court found the defendant was sleeping, the court defined sleeping as

In the cases where the court found that the area was a picnic area for purposes of the statute,

In the cases where the court found that the area was not a “picnic area” for the purposes of the statute,

Put these rules together to craft one rule.

Under California Western Statute 1.1001, a person is sleeping in a park when -

A “picnic area” is
