Advanced Legal Research
Spring 2015
Law 612
University of Alabama School of Law
Robert Marshall

COURSE INFORMATION AND SYLLABUS

Textbook:

There is no required textbook for this course. Many of the assigned readings can be found in *Fundamentals of Legal Research* (9th ed.) by Mersky, et al. (KF240/.J3/2009) and *Legal Research in a Nutshell* (9th ed.) by Cohen and Olson (KF240/.C6/2013). Both of these titles are kept on reserve.

Class Attendance and Grading:

The course meets each Monday and Wednesday from 9:45 p.m. to 10:35 p.m.

Course requirements include the following:

- 10-25 page descriptive bibliography (due 5-1 in Room 218-19 of the Library; description of this project is included in the syllabus);
- final examination (take home; due in the Records Office no later than noon on 5-6);
- completion of library assignments;
- readings for each class;
- class attendance and participation;
- completion of assigned CALI exercises:
  - Agency Decisions and Orders
  - American Law Reports
  - Attorney General Materials
  - Researching Federal Administrative Regulations
  - Federal Legislative History Research - Compiled
  - Legislative History
Internal Agency Materials
Introduction and Sources of Authority for Administrative Law
Researching Uniform and Model Laws
Rulemaking: Federal Register and CFR
Using the Restatements of the Law

Students will also need to complete any online Lexis and Westlaw courses as announced in class.

You are expected to complete the reading assignments prior to class. You are allowed no more than five unexcused absences during the semester. The course is graded on a numeric scale running from zero to 4.0. The final exam will be graded anonymously. The final grade is based on the following percentages:

Paper: 35%
Exam: 65%

You must also complete and pass all library exercises. These exercises are graded P/F. I may deduct points for assignments that are turned in late. All answer sheets for these exercises must be typed or written very neatly. Retain a copy of your answer sheet until I have returned a graded copy.

I reserve the right to deduct substantial penalties against pathfinders that are turned in after the due date and time noted in this syllabus.

My office is located in room 218-19 of the library. I’m in the building every weekday and am generally available at any time to answer questions. I would rather not, however, answer long, involved questions on the mornings prior to our class meetings. You can call me at 348-6426, or email me at Rmarshal@law.ua.edu (include only one L in the email address).
DESCRIPTIVE BIBLIOGRAPHY GUIDELINES.

The descriptive bibliography, a.k.a. the pathfinder, is a guide to the information sources on a specific topic. Essentially, you are choosing a topic of interest, and then preparing an annotated bibliography on that topic. Your hypothetical audience is an attorney who has asked you to compile an annotated outline of all the relevant sources available on a single issue of law. (If you’re wondering whether or not a source should be included, consider if it would be useful to your hypothetical audience.)

The pathfinder is not intended to be argumentative in its scope; you aren’t required to resolve any legal issue within it.

A few of the better projects that students have completed in the past will be put on my TWEN page for this class. Most students look at these projects prior to beginning their own; before you ask questions regarding the organization of your pathfinder, please review these past projects. You’ll note that the organization in each of these pathfinders is different. Although you may select any legal issue or topic to research, a topic that deals with an issue of federal law tends to be more suitable. The topic of your pathfinder cannot coincide with a topic on which you have previously written a paper and/or on which you have received or will receive credit hours in law school. You can, however, structure a pathfinder around a topic you’ve researched or are researching at work. I will be happy to review your topic with you and discuss concerns and questions you may have about your research. Life will be easier all around, however, if you have settled on a topic prior to the end of September.

The research project/pathfinder should be 10-25, neatly typed pages. (The limit isn’t absolute; I don’t, however, want to receive a two thousand page single-spaced project.) The type size should be twelve point. The pathfinder should have a cover sheet that includes the title of the project as well as your name. DO NOT PUT YOUR NAME ON ANY OTHER PAGES OF THE PROJECT. DO NOT PUT YOUR ANONYMOUS NUMBER ON ANY PAGE OF THE PROJECT.
REPEAT THE TITLE OF YOUR PROJECT ON THE FIRST PAGE OF THE PROJECT.

All citations in your pathfinder should be written in Bluebook form. Points may be deducted for failure to use correct Bluebook form.

Pathfinder points are awarded from completeness of research, quality of the annotations provided, the relevancy of the items included, and the manner in which this information is presented. Points may be deducted for misspellings, punctuation errors, grammatical mistakes, and poor organization. Points may also be deducted for failure to annotate sources as noted below; it isn’t adequate to assume that the title of an annotation is the equivalent of an annotation. Nota bene: Students who begin their pathfinders early in the semester almost invariably receive a higher grade.

The content and format of each pathfinder will vary a great deal. For instance, a pathfinder that focuses on a federal statutory law will probably have at least some legislative history. Likewise, a pathfinder that explores a common law issue isn’t likely to contain any references to legislative history (or to statutory law, for that matter). Having said that, each pathfinder should have the following sections:

I. Introduction: Define the scope of coverage; provide an overview of the issues involved; place the subject in context by identifying broader, narrower, and related fields. The introduction doesn’t have to be lengthy or complex; it should, however, make it very clear what the scope of your pathfinder will be.

II. Primary sources: List and annotate the primary sources. This section might include references to statutes, leading cases, legislative history documents, & administrative regulations, etc. Some topics might conceivably refer to multiple cases. If this is the case (and it often will be), list and annotate no more than 5-10 of the most important cases. You need not include the text of relevant statutes, etc.
III. Secondary sources. List and *annotate* the most pertinent secondary sources. You should check the categories listed below for relevant documents. In some instances, a topic may refer to multiple ALRs, law reviews, etc. If this is the case (and it often will be), list and *annotate* no more that 5-10 of the most important secondary sources in each category.

I’ve listed some categories of secondary sources below. *It is unlikely that your pathfinder will include an example of each type of secondary source.*

- Treatises
- Restatements
- ALR annotations
- Law review articles
- Forms/briefs/trial court materials
- Legal encyclopedias

Many students will find relevant materials that fall outside of these categories. Such materials should, of course, be included in your pathfinder.

I’m not really interested in how things are categorized as long as the categories are reasonable. It doesn’t really matter if you can’t determine if some source is a treatise or a practice aid. It does matter if statutes are included in a category reserved for regulations.

IV. Electronic sources

Include references to special libraries/files/databases on Westlaw, Lexis and Bloomberg Law that contain relevant information. Likewise, if relevant cases can be found by using particular boolean (not natural language) queries, include those queries in the pathfinder. *If relevant cases are largely compiled under certain topic and key numbers, then include those topic and key numbers and the best search query that will find those cases.* (You should check the cases you have listed as most pertinent, then determine if there are topic and key numbers
common to those cases. If the topic/key number search requires a connector, then that should also be indicated.

If treatises are available on WL or LX, you should note either in this section or in your section on treatises.

Internet sites that contain relevant information should be included in this project as well. References to the Internet site should include 1) a reference to the URL and 2) the date on which the site was last accessed. (Check the Bluebook for the correct cite form.) Annotations to URLs should ALSO reference the relevance of the web site to the issue under consideration. Simple reference to a general legal links site is not adequate, e.g., don’t refer to www.findlaw.com as a source for materials on point. In most instances, there will be at least one or two sites of some relevance to your chosen topic. (If there aren’t any relevant sites, note that fact in your paper. This is generally true for any of the above mentioned areas—if you can’t find any ALR annotations on point, for instance, note that in your paper.)

V. Analysis and conclusion. Assess the amount & quality of the information available on the issue you have chosen. You are not required to resolve your issue within the conclusion. If you were unable to find information in certain materials, note that fact as well.

Past topics include the following:

The Magnuson-Moss Warranty Act and Lemon Laws
Manufacturer’s or Dealer’s Liability for Injury or Death to Children who Operate All-Terrain Vehicles
A Guide to the Application of RICO to Abortion Protesters
A Primer of Federal Authority for the Preservation of Historic Buildings
The Admissibility of Prior Crimes Evidence in Sexual Abuse Cases
Baseball’s Federal Antitrust Exemption: Pathfinder to an Anomaly
A Research Guide to Keeping Attorney-Client Communications Confidential in Federal Court
Piercing the Corporate Veil: A Guide for Alabama Practitioners
Fourth Amendment Searches and Seizures Directed at School Children
Rights of Ownership Under the Abandoned Shipwreck Act of 1987
A Look at the Constitutionality of Content Based Restrictions on NEA Funding
The Deductibility of Post Graduate Legal Education Expenses
Pathfinder for Legislation Against Cruelty to Animals used in Scientific Research and Experimentation
Effective Waiver of Miranda Rights by Individuals During Custodial Interrogation
Penalty Enhancement for Hate-Motivated Crimes
A Guide to Determining Whether A Timber Sale Qualifies for Capital Gains Treatment
The Good-Faith Exception to the Exclusionary Rule
A Guide to the Application of the Lanham Act to the Issue of Trademark Protection for Color
Off-Duty Conduct: A Firing Offense
Federal Tax Liens and Article Nine: When Perfection Might Not Mean Priority
What Constitutes An Affirmation of Fact Under Section 2-313 of the U.C.C.
The Alabama Extended Manufacturers’ Liability Doctrine
Release from Liability and Exculpatory Clauses
A Researcher’s Guide to Excluding Scholarships from Taxable Income
The Responsible Corporate Office Doctrine as it Applies to the Clean Water Act
The Availability of Discovery in Commercial Arbitration Proceedings
Recent Changes in the On-Sale Bar: A Pathfinder Dealing with Patent Law
The Bona Fide Occupational Qualification Exception as an Affirmative Defense to a Claim of Sex Discrimination under Title VII
Employer Liability for Sexual Harassment in Light of Burlington Industries v. Ellerth and Faragher v. City of Boca Raton
Aircraft and Airports as Private Nuisance or Trespass
The Business Judgment Rule in the Takeover Context: Director Liability and Responsibilities
The Numerosity Requirement of Federal Rule of Civil Procedure 23(a)
A Pathfinder for Researching the Law Surrounding Warrantless, Suspicionless Drug Testing of Athletes
Research Guide to the Innocent Owner Defense of Criminal Forfeiture Statutes
What is a “Consumer Reporting Agency” under the Fair Credit Reporting Act?
The Ordinary Course of Business Exception to Preferences Under Section 547(c)(2) of the Bankruptcy Code
Pathfinder to Sources on Same-Sex Sexual Harassment Under Title VII
Necessary Legal Requirements for Notice to Both Employers and Employees Pursuant to the Family and Medical Leave Act
Sources on the Contact Sports Exemption under Title IX
Applicability of FRE 408 in Criminal Proceedings
The Law Of Warrantless, Suspicionless Drug Testing of Student Athletes
Who constitutes a ‘responsible person,” as defined in Section 6671(b) of the IRC, liable for unpaid withholding taxes under section 6673
Federal Wire Act’s Prohibition of Interstate Gambling
What Constitutes a Violation of the Federal Insecticide, Fungicide, and Rodenticide Act under 7 USCA 136j(a)(2) (G)

You might also choose to focus upon an aspect of litigation under a federal statute or under a federal court rule. Several students have written pathfinders on topics of this sort in the past with a good deal of success.

Students who want to research an Alabama state law issue may discover that there aren’t enough sources to support a pathfinder of the scope discussed above. Students have sidestepped this problem by researching an Alabama state law issue, and then also searching the same issue in other states, e.g. a pathfinder on the defense of consent to assault in Alabama, California, and New York. This sort of approach is more successful when Alabama has decided a line of cases in a way that differs from the approach taken in the other states under scrutiny.
You need NOT choose a topic that’s controversial or that hasn’t been resolved.

**SYLLABUS**

**Topic 1**  
Class requirements, description of project; review; statutory law

Review will include a discussion of how to find and update cases and statutes, as well as a basic review of administrative law materials and Westlaw-Lexis technique.


**Topic 2**  
Legislative History

Olsen, chapter 5  
Mersky, chapter 10

Please look at the following URL prior to class:

[http://www.llsdc.org/sourcebook/fed-leg-hist.htm](http://www.llsdc.org/sourcebook/fed-leg-hist.htm)

**Topic 3**  
Research in Statutory Construction

Secondary Source Materials

Skim Olsen, chapter 2
Topic 4  Administrative Law
Olsen, chapter 6

Topic 5  Alabama Legal Research

Topic 6  Westlaw/ Lexis/ Internet

Topic 7  Personal Injury Litigation/Employment Litigation

Topic 8  Review, with continued discussion of issues regarding search technique

4-17-2015  Last day to turn in a draft pathfinder

4-20-2015  The take home exam will be available today. The completed exam must be returned to the Records Office without exceptions no later than noon, May 6.

5-1-2015  Pathfinder due today no later than noon in Room 218-219 of the Library (NOT the Records Office; a significant number of points may be deducted from pathfinders that are turned in after that time.)

You are responsible for retaining a copy of your pathfinder until grades are returned.

5-6-2015  Final exam due no later than noon in the Records Office. If you are unable to meet this deadline, contact the Records Office. Please DO NOT contact me.