

LAW SCHOOL EXCELLENCE SKILLS WORKSHOPS

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The University of Alabama School of Law

INTRODUCTION

I developed these academic support workshop materials over the past two decades. Initially, I worked on academic support and writing exercises for three years at UCLA School of Law where I served as co-director of the Academic Support Program between 1988-1991. Some of my materials draw from exercises that appeared on the California Bar Exam. Since 1991, I have taught Constitutional Law and conducted academic support workshops at The University of Alabama School of Law.

I have been significantly influenced by my former colleague, Kris Knaplund, who is now a professor of law at Pepperdine, and by Professor Kenney Hegland, the author of Introduction to the Study and Practice of Law. Hegland is also a former law school dean. While Knaplund and Hegland have taught me so much, the following ideas and suggestions reflect my thinking and my errors. I am a big fan of Hegland's work and at times borrow his ideas and illustrations. I have tried to attribute such use at all times, but if there is an inadvertent omission, my intent is to inform my readers that Hegland has had a profound impact on my thinking about academic support and studying law.

The materials are designed for self-study, reflection, and practice. Some units can simply be read. Others require you to do something, such as spot issues, outline, or draft an answer. I recommend that you purchase and read Professor Hegland's Introduction to the Study and Practice of Law at your first opportunity. Then, in the summer before you begin law school, I recommend you complete each workshop.

Good luck with your skills development and with law school.

Bryan Fair
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WORKSHOP I

I. Study Skills

What is the purpose of your study?

- short term — learn language
- learn legal categories
- long term — exam success
- career/client preparation

What skills does one need for success in legal analysis and writing?

- critical reading skills
- issue-spotting skills
- rule recall — memory skills
- sorting skills: analysis of aspect of the rule in question or at issue
- effective/efficient writing under time pressure deadlines (one hour, three hours, week)

How does one develop legal analysis skills during the semester?

- reading legal materials (cases, statutes, law review excerpts and hornbooks)
- briefing cases and notes
- class participation (following the discussion and not permitting yourself to become lost)
- review (daily, weekly)
- synthesis (summarizing the essential principles in each course)

What type of problems might one encounter during reading? (Why should you read the cases?)

- reading comprehension
 - dissecting the text
 - understanding the terms
 - identifying what is important in the reading
- reading too slowly/quickly
- reading too little/much

What types of problems might one encounter during briefing? (Why should you brief?)

- Briefing — as a reading comprehension tool
— as a class preparation tool
— as a synthesis tool
- Briefs too long or too short?

What should go into a brief? That depends on how you will use the brief.

- (a) issue
- (b) rule
- (c) holding
- (d) rationale/reasoning
- (e) implications of decision

What types of problems might one encounter during class preparation or in class? (Why should you go to class?)

Class Preparation/Participation

- reading and briefing before class
- notetaking
- preparing problems for discussion
- volunteering
- fear of being called on

What goes on in class?

- discussion of principal cases
- discussion of policy (why have set of rules)
- discussion of changes in direction of laws
- discussion of hypothetical problems [Teachers are not in class to terrorize you. We are there to exchange ideas and to critique law both substantively and procedurally.]

What types of problems might one encounter during synthesis?

- Synthesis — Reviewing and outlining
reading materials
notes from reading/or class
supplemental materials - hornbook/study aids
- Reducing materials to essential principles and examples
- Memorizing details
- Developing overview of subject

What types of problems might one encounter with study groups?

- Study groups — forming study groups
- group work vs. individual work (what works best for you)

Why do people form study groups?

Benefits?

- support group through difficult experience
- 2 minds are better than 1
- compare notes/understanding of principles

When should you form a study group?

- During the first month of school, after you observe some of your classmates
- find people who have similar work habits
- avoid social study groups

WORKSHOP II

II. Time Management - Making Your Time Work For You

Creating a schedule —

- Scheduling time for:
- class reading
 - review
 - synthesis
 - exam preparation
 - co-curriculars and extra-curriculars
 - yourself

Monitoring schedule and making adjustments

How many hours each week? 168

- hours in class (18)
- hours eating and sleeping (70) (avoid 2 hour lunches)
- hours studying (50) (or more)
- personal time-errands, exercise, etc. (20-30)

QUESTIONS:

HYPOTHETICAL SCHEDULE

(See attached “Time Management Schedule”)

III. Co-Curricular and Extra-Curricular Activities

- student organizations
- journals
- externships
- clinical opportunities
- judicial clerkships
- part-time/summer employment
- research assistantships

TIME MANAGEMENT SCHEDULE

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
7:00							
8:00	Reading/Reviewing	Contracts		Contracts			
9:00	Contracts		Criminal Law	Criminal Law	Criminal Law	Criminal Law	Outline Torts
10:00	Contracts	Torts	Torts	Torts	Torts	Outline CL	Outline Torts
11:00	Contracts		Review Torts	Review Torts	Read CP	Outline CL	Outline Torts
noon		Read CP				Outline CL	
1:00		Civil Procedure	Civil Procedure	Civil Procedure	Civil Procedure		
2:00		Legal Writing/ Research				Legal Writing/ Research	LRW
3:00	Reading/Reviewing		Outline Torts	Read Torts	Review CP		LRW
4:00	Torts	Read CP	Outline Torts	Read Torts	Review CP	Outline CP	LRW
5:00	Torts					Outline CP	LRW
6:00		Read CL	Outline Contracts			Outline CP	LRW
7:00		Read CL	Outline Contracts	Review CL	Read CL	Outline CP	
8:00	Read CP	Read CL	Outline Contracts	Review CL	Outline CL	Outline CP	
9:00	Read CP			Review CL	Outline CL		
10:00		LRW	LRW				
11:00							
midnight							

TIME MANAGEMENT SCHEDULE

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
7:00							
8:00							
9:00							
10:00							
11:00							
noon							
1:00							
2:00							
3:00							
4:00							
5:00							
6:00							
7:00							
8:00							
9:00							
10:00							
11:00							
midnight							

Note: Fill in the above-provided schedule indicating both class and study times for your fall semester. I want you to allow for 3 hours of study time for each hour of class. Thus, for each 4 hour class you should indicate 12 hours of study time. For Legal Writing, you must sometimes work more than 3 hours per class meeting. Discuss time management with your Legal Writing faculty.

WORKSHOP III

Issue Spotting

One of the skills you must develop in law school is the ability to read facts and to understand what issue is raised by the facts. In each class, you will read perhaps 100 cases. In each, there is a factual story and an identification of the legal issue presented.

Based on reading all those cases, you will be expected to read new hypotheticals and to recall the issues raised based on what you have learned through your prior cases. For example, in Torts, you will read cases about battery and assault. In those cases, the courts will tell you what rules apply in such cases. Later, you will have similar practice questions in which you try to apply the rules to the new situation. Your job is to identify the issue, state the controlling rules, make plausible arguments for each side, and decide who should win.

For each course, you must learn how to spot the issues raised in the various cases. Ask yourself – what facts do you need to raise each issue? Remember, in real life clients will come to you to tell you a story. They need you to translate the story, that is, to tell them what issues are raised, what rules apply, what arguments each party can make, and who is likely to win.

Possible issues

robbery

assault

battery

false imprisonment

negligence

trespass

transferred intent

negligent infliction of emotional distress

intentional infliction of emotional distress

doctrine of necessity

duty to rescue

murder

felony murder

manslaughter

attempted murder

adverse possession

Read the following hypotheticals and try to identify the issue(s) raised in each.

1. John Mac, a world class tennis player is known for his fiery temper and competitiveness. Recently, during a tennis match he became so upset about a call that he threw his tennis racquet in the direction of a line judge. Although Mac did not hit the line judge, he came very close.
2. Steve Avery, the MVP of the National League Championship Series, is only 21 years old. By all accounts he is one of the best pitchers in baseball. Just three years ago he was pitching in a high school game. Earlier this season Avery was less successful. During one game he lost his cool when a fan behind home plate kept distracting him. Avery decided that he would throw a "wild" pitch toward the fan and try to hit him. Avery missed his intended target but hit a small child sitting near the fan.
3. Delores Woods was visiting her daughter in Los Angeles. During the visit Woods went shopping on several occasions, including one trip to Beverly Hills. While shopping in Macy's, she was approached by someone she thought was a store clerk, but who in fact was a security person. The security person had been observing Woods since she entered Macy's. The security person asked Woods to follow her to a back room that contained racks of special bargains. Woods followed the security person. Once they were away from other persons, the security person identified herself and requested to search Woods' purse. When Woods refused, the security person told Woods that she would have to stay in the back room until the police arrived. Woods said she would not wait for anyone since she had done nothing wrong. As she started to leave, three other store employees approached and asked the security person if she needed any help. Woods began to cry. When the police arrived, they searched Woods' purse and found nothing except personal items. The store employees apologized for the inconvenience and told Woods she was free to come to the store anytime.
4. A storage shed on the suburban yard of Construction Co. ("Conco") caught fire on a Sunday morning. Ken, Conco's draftsman at its downtown office, happened to be jogging by during his regular morning run. Ken broke into the yard office through a closed window and notified the local volunteer fire department. He next located ignition keys and moved several pieces of heavy equipment onto an adjacent field. The heavy equipment included four bulldozers, which were threatened with imminent destruction if they were not moved. Unknown to Ken, the adjacent field belonged to a wholesale florist, Tim. Although the field appeared to be vacant and unused, Tim had planted it with valuable tulip bulbs. Bulbs valued at \$10,000 were destroyed under the weight of the heavy equipment.

5. A four-year-old girl stumbled and fell into the deep water of a swimming pool. Five adults, all expert swimmers, observed her struggles, and though fully capable of assisting the child, none went to her rescue. As a result the child drowned. Are the adults, none of whom was related to the child, criminally liable for the child's death?
6. D, a somnambulist, fell into a sound sleep while sitting in a train station lobby. P, an employee at the station, shook D to awaken him and announce the arrival of the train. Before regaining consciousness, D pulled a gun from his coat pocket, shot and killed P. Is D guilty of a crime?
7. Al, Bill, Chuck, and Dave decided to commit a robbery. According to their plan, Al, Bill, and Chuck would enter a jewelry store while Dave waited near the car as both look-out and getaway driver. Al told the others he had a water gun that closely resembled a 9mm pistol that could be used to threaten the jewelry store operator. Al, Bill, and Chuck entered the store. Bill and Chuck watched Al approach the store operator. Suddenly, Al pulled out a knife and killed the store operator so that there would be no witnesses. Al, Bill, and Chuck left the store with an undisclosed amount of cash and jewelry. As they drove away, Al, Bill, Chuck, and Dave were surrounded by police officers. Please discuss what forms of murder, or any lesser offenses Al, Bill, Chuck, and Dave may be convicted of on the above facts.
8. D shoots at X who he believes is Z. X dies of his injuries.
9. D decided that he could no longer live with his lover P. He decided that the best way to kill P was to slowly poison him. D went to the hardware store and purchased rat poison. As was D's habit, he made P an ice cream smoothie for dessert. This time D put poison in the drink. When P came home P and D had a bad argument. Later, P went to the kitchen and noticed the smoothie dessert. The dessert had a peculiar consistency and odor. P suspected the worst and called the police. After the police arrived they questioned D and arrested him. Is D criminally liable for any offense?
10. Leticia Aguirre owned 700 acres of grazing land near San Luis Obispo, California, which she rarely used. Josh Bornstein discovered the beautiful unsettled land while traveling through central California. Josh inquired about the land and learned it was owned but rarely used by Leticia. Josh decided that since the land was rarely used, he would use it. Josh built a comfortable cabin for himself, fenced in about 400 acres and raised sheep on it. He stayed in possession of the land for over five years. Then, Leticia, through her attorneys, brought an action to force Josh off the land. What result? Why? Discuss.

Write out each issue that you think is set out by the hypos.

WORKSHOP IV

Examination Analysis and Writing Tips

Use the following techniques to improve the substance and quality of your exam writing:

1. Try to spend no more than one-fourth or one-third of your allotted time reading and organizing, and the remaining time writing your answer. Do not spend too much time on any one question. Follow the guidelines provided for each question by your instructor. Many points are lost when students do not follow the suggestions for time.
2. Read your question, interrogatory, or task first. Note the specific questions you must address as stated in the parts of the question. You will use the parts of the question to organize your written response.
3. Read the facts (no matter the length) at least twice. (If necessary read more times.) First, read for familiarity as quickly as possible. Then read for detailed issue-spotting and articulation. Sort the facts according to question(s) presented, or major transactions. By sorting the facts it will be easier to incorporate them into your written analysis.
4. Write a separate list of issues presented and organize the list into some logical order. Frame your issues in the form of questions that include specific facts. Use the list to guide your writing.
5. Read questions again to remind yourself of your task(s). If you don't answer the question(s) presented, you will lose points. You answer the question by intelligently discussing all relevant subissues raised by the facts, in light of the controlling rules. Try to compare or distinguish cases you have read with the facts in the hypo. Write explicitly. Tell the reader what facts are most significant.
6. Write (or type) as clearly and quickly as you can moving down the list of issues you have created. Don't choose sides. Acknowledge facts that support arguments for each party. (Even if you represent one side, identify weaknesses to the party's argument.) Take a stand in light of your analysis. Your conclusion should follow your analysis.
 - Paragraph frequently as you move from issue to issue. This will help you carefully develop each issue.
 - Use headings.
 - Use facts from the hypo in your analysis.
 - Follow IRAC + T.

APPLYING PRINCIPLES TO FACTS

(from KENNEY HEGLAND, INTRODUCTION TO THE STUDY AND PRACTICE OF LAW (4th ed. 2005))

Rules of Law to Apply in Answers to Questions

1. The law protects the *reasonable* expectations of the person accepting an offer. How does the law judge what a reasonable person would believe? By looking at the circumstances surrounding the offer.
2. The statute of frauds requires that some, but not all, agreements be in writing. For example, an agreement for the sale of real property must be in writing. Cases interpreting the statute of frauds have indicated that it fulfills two purposes: (a) to protect against false claims; a writing is good evidence that the parties actually agreed and that no one is making things up; (b) cautionary; people should not enter into important legal transactions orally; written contracts ensure greater reflection on the part of the contracting parties.
3. Contracts for an illegal purpose are void and unenforceable.

Exam Question

Sleazy Sam and Billy Bigmouth ran into each other at the Lazy J Bar. After several drinks, Billy says, "You know, I think I'll blow this town and get into pictures."

"Oh, yeah? How are you going to support yourself in Hollywood until they discover your major talent?" asked Sam.

"Why, I'll sell my house. You can have it for \$60,000. Last week it was appraised at \$120,000."

"You must be joking, that deal is too good to be true," replied Sam, having another drink.

"Man, it's just that you don't have the money."

"Look, I can have \$60,000 cash at the end of the week."

"Bring it by."

"Are you serious?"

"Sure," laughed Bigmouth.

“Well, I need a new place for my bookmaking activities.”

“That's illegal but what you do with the place is your business,” said Bigmouth. “Let's shake.” The men shook hands and left the bar.

Three days later Sam received the following letter from Bigmouth:

Dear Sam,

Of course I was joking when I promised to sell you my house for \$60,000 cash at the end of the week. In any event, I don't want to do it. So there.

Yours truly,
Billy Bigmouth

Must Bigmouth make good on his promise to Sam? Discuss his legal position.

ORGANIZING AN ANSWER

(adapted from KENNEY HEGLAND, INTRODUCTION TO THE STUDY AND PRACTICE OF LAW
(4th ed. 2005))

Introduction

Issue one:

Controlling law:

What will plaintiff argue?

What will defendant argue?

Who has better argument?

Next issue and its relationship to previous issue:

Controlling law for this issue:

What will plaintiff argue?

What will defendant argue?

Who has better argument?

Next issue/relationship to previous issue:

Controlling law:

What will plaintiff argue?

What will defendant argue?

Who has better argument?

[Repeat above for each of the remaining issues.]

APPLYING PRINCIPLES TO FACTS

Sample Answer

In order to decide if Billy must make good on his promise to Sam, we must evaluate several issues. First, was it reasonable for Sam to think Billy was serious? Second, does Billy's letter to Sam saying he was joking about selling his house for \$60,000 satisfy the Statute of Frauds? Third, was the contract for an illegal purpose?

Was it reasonable for Sam to think Billy was serious about selling his house? The law protects the reasonable expectations of the person accepting an offer. Judges determine what a reasonable person would believe by looking at the surrounding circumstances.

Here Sam will argue it was reasonable for him to think Billy was serious. First, Billy initiated the conversation about selling his house. He indicated a price and that he had had the house appraised recently. When Sam asked if Billy was serious, Billy said he was. He told Sam to bring the \$60,000 by. They shook on the deal. And Sam will argue that Billy's letter indicates that there was some doubt in Billy's mind whether Sam thought Billy was serious. The letter probably would not have been written if Billy thought there was no way Sam could have thought Billy was serious.

On the other hand, Billy will argue that it was not reasonable for Sam to think he was serious. They ran into each other. They had not planned to meet about selling the house. They were drinking (although it is not clear what). Billy will say no one would believe a seller would sell a house for half the appraised value. Billy will say he was joking and laughing, indicating he was not serious.

I do not think it was unreasonable for Sam to think Billy was serious in light of all the facts. I think Sam should win on this issue.

Even if Sam wins on the first issue, a court may decide that the agreement is not enforceable because of the Statute of Frauds. The Statute of Frauds requires that contracts for the sale of real property to be in writing. The requirement serves both evidentiary and cautionary policies. If there is a writing, the parties have evidence of their agreement. Also, a writing assures some measure of reflection by the parties.

Here, Sam will argue that the Statute of Frauds is met by Billy's letter. Although it was written three days later, it contains evidentiary information about their agreement. It indicates a price and a date for performance. Billy will argue, on the other hand, that there was no writing when they left the bar. Billy will say that the parties did not reflect on their deal by reducing it to a writing while at the bar.

This question seems close. The underlying policy rationales for the rule seem to split for the parties. A court could go either way on this issue.

Finally, even if Sam wins on the first two issues, a third obstacle is that he intended to use the house for illegal bookmaking activities. The general rule is that contracts for an illegal purpose are void. A court would have to decide if this was a contract for an illegal purpose. Sam will argue that his agreement with Billy did not require the house to be used in any way. Indeed, Billy said to Sam, "What you do with the place is your business." Sam will say the agreement was for the sale only, not how the place would be used. For example, a contract requiring that the place be used for illegal activities like drug dealing would probably not be enforced nor would an agreement to kill another person be enforced. Billy will argue that his agreement with Sam should not be enforced because Sam said he would use the property for bookmaking. Again, it seems that courts here could split. One might say that Sam's intent is enough to void the contract. On the other hand, a court might refuse to let Billy out of the agreement based on what Sam allegedly said he would do with the house. I think many courts would not void the contract for the sale of this house since Sam's underlying purpose seems unrelated to this dispute.

Critique:

Your answers need to be longer. Make sure you include legal standards and that you apply those standards. Please compare your answer with the one above.

Practice Exercise #1

(One Hour)

On November 8th the following notice was posted in a privately operated law school in Southern Pacifica:

The administration, seeking to encourage more law students to enter the teaching profession and to publish in the area of law regarding voting rights, invites any student enrolled at this school to enter the National Should I Vote Writing Competition sponsored by the ACLU and the ABA. Any student who wins the writing competition will be awarded the additional prize of \$500 by the law school. All competing papers must be submitted to the Dean's office before next April 30th. If you have any questions about the additional prize, you may make an appointment with the Dean.

George Danforth, a student at the law school who believes in peace through strength, had entered the writing competition in September. When George read the notice, he thought the additional prize money would help him finance a trip to Washington, D.C., so on November 15th he intensified his effort to make his paper on voting rights a winner. After reflecting on the November 8th notice, George left a note with the Dean's secretary saying, "I accept the administration's offer," signed George Danforth.

Michael Lloyd, another law student at the school, also read the November 8th notice and decided to enter the competition. Michael thought the competition would enable him to learn more about voter behavior. He started his paper on January 20th, his birthday. He went by the Dean's office several times to say he was entering the competition, but he was never able to catch the Dean free. By March 10th, Michael had a rough draft that he was sure would please the sponsors of the competition.

On March 15th, the day before spring break was to begin, the administration removed the November 8th notice and posted a second notice which read:

The administration regrets that our invitation regarding the National Voting Rights Writing Competition must be withdrawn.

Michael submitted his paper to the Dean's office on April 1st. George submitted his to that office on April 29th. On May 15th it was announced that Michael had won the national writing competition and the prize of \$1,000. The administration congratulated Michael but refused to pay anything.

Michael and George come to see you regarding their rights against the administration. How would you advise them?