

LEGAL RESEARCH & WRITING FOR INTERNATIONAL STUDENTS

Meets: Tuesdays and Thursdays
2:10 p.m. to 3:30 p.m. - Roosevelt Hall 010

Professor: Juli Campagna ¹
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Office Hours: 10:15 a.m. – 12:00 p.m. – Tuesdays and Thursdays

AND BY APPOINTMENT ²

Office: Room 033 (basement near the copy room)

Teaching Assistant: Ms. Alexandra Sanchez (“Lexi”) -
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Class Learning Objectives

- (1) To improve research and writing skills so that students can –
 - research American law effectively;
 - understand statutory, regulatory, and case-based rules;
 - brief a case;
 - apply legal rules to new facts;
 - analyze and write effective memos and client letters in English;
 - cite statutes, regulations, cases and other texts correctly; and
 - write their substantive law exams and course papers in a way that meets the expectations of their professors and satisfies the standards of an American law school

- (2) To improve oral and written legal English skills in the areas of -

¹ **M.A.** – Linguistics, with a specialization in Teaching English as a Second/Foreign Language;
J.D. – Admitted to the Illinois Bar and before the United States Tax Court; **LL.M.** – International Business and Trade Law.

² Students are **WELCOME and ENCOURAGED** to seek me out if they cannot make my office hours. I ask that you **NOT** “drop by” outside my office hours without contacting me first, however. You are welcome to send me an e-mail or try calling me *even minutes before you want to come by* to see if I am free. As a member of the faculty, I have many duties beyond teaching. Thus, just because I am *in* my office does not mean I am free to chat. I have set aside my office hours for students, and will gladly see you outside those hours, including evenings and weekends. I simply ask that you contact me first.

- sentence structure,
- vocabulary, and
- notional / functional language essential to U.S. and common law.

Required Texts

(1) *Merriam-Webster's Advanced Learner's English Dictionary.*

(2) *An all-English legal dictionary, such as Black's Law Dictionary.*

Both dictionaries are available in the Hofstra bookstore. You may choose any **all English** legal dictionary you like. I recommend a paper book version – same terms, lower price.

To examine law, you will need a legal dictionary. To examine facts, you will need a standard dictionary. The common law, as you will see, is driven by facts and factual analyses. **One-word translations** to and from your native language may be necessary, but will **not** be **at all sufficient for purposes of studying law** through the medium of the English language. Therefore, a bilingual dictionary that translates words to and from your native language is simply not enough to work in the law. Students may use bilingual dictionaries for facts and law, but they must use the monolingual (all English) dictionaries in this course. The Merriam-Webster dictionary is designed specifically for individuals who speak English as their second language, but who already speak it well.

The lawyer's life is a life of words. Words do not derive meaning from other languages (translations). Words derive their meaning from their context. To study any legal system, therefore, you must understand the context in which it exists. The context of any legal system is first and foremost territory. Thus, you need to understand what words mean when used by native-speaking legislators, regulators, judges, parties, witnesses, lawyers and law professors. When you come upon words you do not understand in the assignments, you **must** look them up. I do not expect you to understand everything you read, legally. No student may get a good grade in this course, however, if he or she does not look up the words in our readings that he or she does not understand. This is not a threat or admonishment. This is a statement of fact.

Recommended Text

THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (2010). *In the alternative*, a recent version of THE ALWD MANUAL.

Note: If you have an earlier edition of THE BLUEBOOK, that's fine. The latest edition simply has a widely expanded section on citing international materials. Please do not spend the money on the 19th edition if you have an earlier one.

Also, if you have a copy of the ALWD MANUAL, for example, please do not buy any copy of the Bluebook. My message to you: please do not buy both!

Note that I have also placed a copy of THE BLUEBOOK on reserve for the semester. Just ask the librarians at the reserve desk. You will need to use this copy *in* the library, but at least you can avoid the expense of buying the text. Citations are not separate from the law of the United States and the several states. They are an intricate part of it because **they tell the lawyer or judge reading the document *who is bound* by the decision (the law) in question.**

If you do not want to spend the money on the *Bluebook*, do not worry – I will teach you essential citation skills through my personal handouts.

Course Materials

I have prepared student packets that I will distribute periodically during the course. There is no textbook in print at this time that addresses the simultaneous language and legal needs of foreign lawyers. For this reason, I am currently writing one. These materials constitute the contents of the book. There is no charge for any of my materials.

You will also need to go to the Copy Center to pick up packets called *Grammar and Usage Structures Necessary for Lawyers*. There is a fee for these, but the fee will come out of your copying account, which is part of your tuition. Even though you will see ©, and “All Rights Reserved” on the materials, you are not being charged a copyright fee for my materials. You may simply not copy them and give them to friends or colleagues without my written permission. I will let you know when the copies are ready, and will show you where the Copy Center is located if you like.

Required Written Assignments

Short “Support” Type Assignments –

- Citation and short answer research exercises: assigned throughout.
- Language assignments: assigned weekly during the first half of the course
- Answers to case questions drafted by Prof. Campagna

Client Letter –

Letter setting forth legal situation / likely outcomes (client advice letter)

Legal Documents -

1. Memorandum of Law: IRAC memo
2. Settlement Agreement

Required Oral Assignments

1. Simulated law practice meeting to discuss cases and their relevance for final IRAC memo;
2. Final Arbitration Activity ³

Grading

IRAC memo - 5%: first draft - 35% final memo -	40%
Other Legal Assignments	25%
(Written) Language Assignments	20%
Oral Activities	15 %

Students must turn in all assignments.

- ❑ You must turn in every assignment **on time**. The law is a rule-based system driven by deadlines and statutes of limitations. The purpose of law school is to teach students how to practice in the legal profession. Thus, late work in law school has the same value as late work in legal practice: little or none.
- ❑ There are three basic types of assignments for this course:
 - (1) Short exercises to build your skills in a concentrated, “unit-type” of structure. These consist of citation and short answer research exercises (law); grammar and vocabulary exercises (language); case law questions (law and language).
 - (2) Longer, substantive writing pieces listed above. These are: the client letter and the IRAC memo.
 - (3) Oral exercises consisting of a group presentation; law firm meeting simulation; and negotiation practice.

³ Students who do not prepare for the practice meetings and/or the final arbitration activity can not receive an **A** in this course, no matter what their grade on the final IRAC memo is. You could never make partner in a firm if you came to meetings unprepared.

Because this is a *skills* class, it is both “active” and “busy.” **STUDENTS SHOULD NOT ANTICIPATE SITTING IN SILENCE AND TAKING NOTES.** This is not that type of class. We have no “final” exam. Like legal practice, this course is all about “doing” and “contributing” to the group on a regular basis. As in practice, every class matters.

CLASS ATTENDANCE AND CLASS PARTICIPATION REQUIREMENTS

No student may receive a good grade in this class if:

- He or she does not *prepare* for the oral assignments listed above;
- or**
- He or she is absent for *more than two* classes.

Many of you come from university systems where attendance is not required and may not even be usual. Our system is completely different. Law schools have mandatory requirement systems that students must follow. If American law schools fail to enforce the attendance rules, they risk losing their accreditation from the American Bar Association (ABA). Thus, you must come to class. You may miss two classes without written excuse. After that, you will be administratively withdrawn from the class. This means you will have to petition the Academic Dean ⁴ for re-admission to the class.

Beyond the ABA rules, the reason I personally require attendance is that our class is both inter-active and “inter-woven.” The purpose of this class is to teach you how to conduct legal research in the American legal system **and** to help you improve your legal English. I need to see you and listen to you throughout the semester in order to gage your progress, and to help you.

If you are not in class on a day when a written assignment is due (written assignments, whether short or long, will be due nearly every week), you need to send me that assignment, via e-mail, **before** the start of class.

People can and do get sick. Emergencies or surprise workloads arise.

There will be no make-ups in our class. In other words, if you fail to turn in an assignment on time, that is it. In legal practice, late work has little or no value. Failing to complete work on time in legal practice will normally cause you to lose a case; lose a client; or lose your job.

⁴ The Academic Dean is Dean Ron Colombo. Appeals to be re-instated after academic withdrawal may not be brought to myself, Steve Richman, or Professor Ku. We do not have jurisdiction over them.

Instead of assigning “make-ups,” or accepting late work, I will simply drop your lowest grade on the citation and short answer exercises. I will also drop your lowest grade on the language exercises. To say that I will “drop your lowest grade” means that I will not calculate your lowest grade into your final grade. This systems works to your benefit. For example, if we have six citation and short answer exercises in the semester, your grade will be based on the top 5 assignments you turn in. If you fail to turn in an assignment on time, your grade for that assignment is **0 (F)**. Because I drop your lowest grade, however, you can still get full credit for the other 5, without incurring any liability on the sixth assignment. The same is true of the language assignments, with this exception: every student must turn in the exercise on *Structuring the Legal Issue Statement*.

If you are having trouble with any assignment, come to see me before it is due, the same way you would go to see the senior associate or partner if having trouble in legal practice. Coming to class on the day the assignment is due and telling me that you had troubles with it is too late – you have blown the statute of limitations on the assignment by that time.

The legal drafting assignments (the client letter and each draft of the IRAC memo) must all be turned in, and be turned in on time. I do not drop the lowest grade on these key work products.

REQUIRED WORK FORMAT

- The **letters** must be written in 12-point font, in the format taught in class. The term “format” includes dates, addresses, salutations and punctuation. **Letters** are **single spaced** in American legal practice. Thus, you will need to single space them in this class. You will have ample instruction and model letters to help you learn this.
- The **IRAC memo** ⁵ must be written in 12-point font and **double spaced**. Be sure to include page numbers on the bottom of each page.
- The Legal English grammar units may be hand written or typed on a computer. You must write out each sentence, as indicated. No credit will be given for non-conforming formats. You will have examples for everything.

The **due date** for the **final IRAC memo** is our last day of class this semester: **Thursday, November 13, 2014**. The due date is in keeping with the purpose of this class, which is to give you the skills to do well on exams and in legal practice. We want you to finish this class *before* exams start, and *before* the exam study period starts, so that you can concentrate exclusively on your other,

⁵ You will learn the meaning of IRAC and the meaning of IRAC memo early in our course, worry not.

substantive law classes. The due date for the Client Letter will be in early November as well. We will determine the exact date later in the semester.

- You must submit a paper copy of your IRAC memo to me at the start of class.
- You must submit an e-version of the same to me by noon the next day. Be sure to send me the e-version in Word.

Any students who turn in any of the above projects late will have their grade on that paper deducted. Papers received up to 48 hours late will suffer one increment (i.e. a B+ grade will become a B). Papers up to 4 full days late will suffer two increments (i.e. a B+ grade will become a B-). We will need to discuss the grade of any paper beyond four days late. Under no circumstances may a student turning in a late paper get the same grade as a like student who turns his or her work in on time. This violates the central definition of justice in the American legal system.

I WILL POST A SEPARATE SHEET THAT LISTS ONLY THE DUE DATES FOR YOUR VARIOUS ASSIGNMENTS SO YOU DON'T HAVE TO WADE THROUGH ALL THIS TO KNOW WHEN THINGS ARE DUE.

I WILL ALSO STATE, IN WRITING – WHETHER ON PAPER, OR ON TWEN – THE DUE DATE FOR EACH INDIVIDUAL ASSIGNMENT AS WE GO ALONG.

COURSE EXPECTATIONS

Legal research and legal writing in the common law system are very demanding, even for lawyers and law students who are native speakers of English working in their own legal system. Nearly all U.S. law schools require their J.D. students to take at least two years of legal research and legal writing. Many require them to take research and writing courses all three years. This is so because American lawyers spend their *entire* careers “looking for” the law. This is our ethical duty.

The ability to find relevant law, analyze it, and predict ⁶ your client's outcome within the legal framework is the most important skill a lawyer can have. In a legal system like the American one, with dual sovereignty (state and federal law) and binding precedent (case law), this task is daunting.

I am well aware that English is not your native language, and that the common law is not your native legal system. It is for this very reason that I have designed this course. Dean Eric Lane specifically asked me to do so.

⁶ As well as argue – but you will not be arguing in U.S. courts. Therefore, we will not write argumentative briefs in this course.

Every student who does his or her work diligently and turns it in on time has the chance of getting a good grade. That said, this course is not about grades. Our course is about learning how to practice law in the United States; how to practice law in an American firm abroad; how to work with U.S. attorneys on the other side of a deal or dispute when you are practicing back home. At the very least, this course will help you pass your other courses at Hofstra.

Please relax and learn. **Whenever** you don't understand a concept, whether a legal one or a linguistic one, let me know. That's what I'm here for.

My goal for you is to have a small portfolio of writing samples that you can show to a potential employer. I also want you to have the tools to do well on your substantive law finals and papers in your other courses at here.

Please read each week's assignments **carefully**. Reading relevant documents with extreme care and great attention to detail is the lawyer's life. That is why I have tried to include all relevant information for each week's class on this syllabus and/or on the actual assignment. As a result, the syllabus is very long, and very detailed. I provide such a long and detailed syllabus because some students, inevitably, will have difficulty understanding the oral language, since English is not their first language. Thus, students can be sure of what our weekly topics are, and what they need to prepare. You can always e-mail me to be sure. You will need to e-mail me in sufficient time, however. I treat all my students as present or future colleagues, meaning present or future lawyers. The law is a profession. Law school exists to prepare students to practice this profession. I do not spend my evenings "surfing the web." Thus, I am under no duty to respond to e-mails sent the night before an assignment is due. If I receive it, fine. It is your duty, however, to contact me in time if you are not sure (a) when an assignment is due, or (b) what the expectations or component parts of that assignment are.

Statements such as "I didn't know it was due," are contra-factual and unprofessional. All due dates, are or will be written in black and white long before the assignments are due.

- Contra-factual statements are NOT for lawyers.
- Such statements, therefore, are inadmissible.

CLASS TIME RULES

All students must **turn off** their **cell phones** before class starts. No cell phones, text messaging, head sets or other distraction is allowed during class.⁷

⁷ If you are a practicing lawyer still working for your firm, in your country, while you are here in the United States, please contact me. I will be happy to work with you on this if you are waiting to hear from a client or partner.

YOU MAY NOT SURF THE WEB DURING CLASS. Students surfing the web will be asked to leave - immediately. Any student who does so a second time will lose a full point on his or her final grade in this course.

Unlike many other professors, I do not mind if students eat or drink in class, provided they don't make a lot of noise doing so.

Class will start at 2:10 p.m. sharp. If you must arrive late, please enter quietly, and pick up any lecture materials set at the first desk near the door.

TWEN

TWEN is an electronic blackboard product produced by Westlaw. Professors here at Hofstra use TWEN to communicate with their students. I use it to communicate with you and to post assignments. Because this is all new to you, I will also distribute paper-based versions of all your assignments. *Know*, however, that I will also post all the assignments on TWEN, and will also post additional support materials on TWEN. Be sure to sign up for our class (and *all* your classes) on TWEN.

OUR CLASS MOTTO

THE LAW IS A VERB.

You will find assignments and lecture topics for the first four weeks of our class in the following pages. I will provide an all-semester syllabus for you by mid-September. In the prior pages I have provided you with the basic outline of the tasks you can expect to perform and the content you will learn.

Weeks One and Two

Thursday, August 21, 2014

Tuesday, August 26, 2014

Thursday, August 28, 2014 – NO CLASS⁸

Lecture Topics :

- ❑ Structure of the American Legal System – a “federalist” system
- ❑ Sources of law in the United States
- ❑ Sources of law in the 50 states
- ❑ **Facts** and **law** – what do these terms mean?
- ❑ The Common Law:
 - What it is
 - What it is not

- ❑ Typical structure of an appellate case
- ❑ Citing case names

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Assignments

I will bring copies of the following exercises to our class on Tuesday, 8/20. Time permitting, we may *start* them in class. **I have written the due date on each assignment.**

Legal Assignments:

- **Read** *Ahlers Bldg. Supply, Inc. v. Larsen*, 535 N.W. 2d 431 (S.D. 1995).
- **Answer** the questions and **be prepared to discuss** the “Fact Questions” attached to the case during Thursday’s class.
- **Answer** the questions entitled *Legal Reasoning* (also based on *Ahlers v. Larsen*), and be prepared to turn them in on Tuesday, August 27 (distributed on Thursday, August 22).
- **Self-study posting on TWEN** – Vocabulary terms necessary to understand the *Ahlers* case. (Not required; just an aide if you are interested.)

NO LANGUAGE ASSIGNMENTS ARE DUE DURING THESE TWO WEEKS.

⁸ We will schedule a make-up class date for this class on a day and time when we are all available.

Week Three

Tuesday, September 2, and Thursday, September 4, 2014

Lecture Topics

- ❑ What is a statute?
- ❑ What does the term *statutory construction* mean?
- ❑ How to find state and federal statutes
- ❑ Titles of the U.S. Code
- ❑ Elements of a statute
- ❑ Citing the U.S. Code
- ❑ Short names and popular names of statutes

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Legal Assignment:

- ✚ Turn in ***Legal Reasoning Answers for the Ahlers case.***
- ✚ Popular Names Index
- ✚ Setting Forth Elements of a Statute
- ✚ Citing Federal Statutes Correctly

- ✚ Newspaper article and accompanying comprehension questions: Linda Greenhouse, *A Devil in the Details, but Not in the Constitution*, N.Y. TIMES, May 28, 2007 at A12.

Language Assignments:

Units 1 and 2 of the Grammar and Usage Exercises – READ each unit. Both Unit 1 and Unit 2 have Exercises with clear directions.

- ✚ **Unit 1** (Use Have to to Convey Legal Duty) is due by 3:00 p.m. on Tuesday, September 2.
- ✚ **Unit 2** (Use Must to Convey Legal Duty, Legal Prohibition and Probability) is due on Thursday, September 4.

Week 4

Tuesday, September 9 and Thursday, September 11, 2014

Lecture Topics

- ❑ Subject-matter jurisdiction of the federal courts
- ❑ Structure and Organization of the Federal Courts
- ❑ Judicial construction of statutes
- ❑ Canons of construction
- ❑ Judge-made law and legal precedent
- ❑ Case-law rules
- ❑ Juries and jury instructions

Legal Assignment:

Arthur Andersen LLP v. United States, 544 U.S. 696 (2005).

- ✚ In-class group activities
- ✚ Comprehension questions

Language Assignments:

- ✚ **Unit 3**, (*Using Should to Offer Non-Binding Advice*) is due on Tuesday, September 9.
- ✚ **Unit 4**, (*How to Use suppose, BE supposed to, and supposedly*). Due on Thursday, September 11.

YOU WILL RECEIVE A SYLLABUS OUTLINING THE REMAINDER OF THE SEMESTER IN EARLY SEPTEMBER. WE WILL FOCUS ON WRITING AN IRAC-STRUCTURED MEMORANDUM OF LAW AND A CLIENT LETTER – USING PLAIN ENGLISH - STARTING WEEK 5 OF THE COURSE.

See the next page (the last page) of this initial syllabus for additional references and information.

Language

In addition to the language exercises set forth on the syllabus, I will also post numerous legally-related language handouts on TWEN.

Four key handouts are:

- A **review of all the verb tenses** in the English language, explaining both function⁹ and form¹⁰ - in the affirmative, negative and interrogative – on a per-tense basis;
- When to use **the definite and indefinite article** in the law (*the* and *a/an*);
- A **structured breakdown** of the tenses and other **forms** you need for **each step of the IRAC format**; *and*
- A review **of key expressions of time**, with legal and business examples.

You need to refer to these materials when you write. While our class covers *language* and *law*, it is not an “English” class for purposes of teaching verb tenses and the like. This is why I have compiled these writing aides.

I will post other handouts that will help you prepare for and conduct your meeting and negotiation activities appropriately. Contextually appropriate language is just as important as grammatically correct language. **You will need to refer to and use these materials for the oral activities.**

⁹ When to use it.

¹⁰ How to structure it.