Legal Analysis, Writing & Research I  
Fall, 2015  
Professor Cascino

Welcome to Hofstra Law School. I look forward to meeting you during Orientation. Our first session is designed to provide you with some tools to assist you in your transition to law school and also to begin the work of Legal Analysis, Writing and Research I.

As your Orientation schedule indicates, we will have our first class on Wednesday, August 19th from 10:00-12:00. Please check your Orientation schedule, or in the Registrar’s office, to determine the room in which we will be meeting.

Prior to our first Legal Analysis class, please:

1. **Purchase the following books, which are available in the Hofstra Bookstore:**

   Neumann, *Legal Reasoning and Legal Writing* (7th ed.);
   *The Bluebook, A Uniform System of Citation* (20th ed.); and
   *Interactive Citation Workbook for the Bluebook* (2015 ed.).

   I also recommend that you buy a legal dictionary of your choice. It is an essential tool for all of your classes.

2. We will also be using *Core Grammar for Lawyers*. This program is an online self-instructional learning program that will give you practice in fundamental grammar conventions as well as advanced grammar issues that are specific to legal writing. Instructions for purchasing and completing the program will be discussed at our first class.

3. **Please be aware that you must register for the TWEN page for this class immediately.** I post many class assignments and other documents on TWEN, and also use it to communicate with the class.

4. **Please read Chapters 1-3 in *Legal Reasoning and Legal Writing*. Based on the briefing guidelines you will cover in orientation, please prepare case briefs of the Roberson case, beginning on page 25, and the Costanza case on page 35.** Although I will not collect them, you will be expected to participate in class discussion of the elements of your briefs.

Prior to our second Legal Analysis class which will take place on Thursday, August 20th please complete the following assignment:

1. Please read Chapters 4-5 and 12-15 in Neumann. Prepare exercise I on pgs. 176-77 but use the version of the Griggs passage that appears attached to this assignment. **Label each numbered sentence as Conclusion, Rule, Rule Proof, or Rule Application *(you can handwrite this assignment).*
2. Complete the “No Vehicle” assignment that appears on the following pages. This assignment offers you the opportunity to begin analyzing legal rules. You should be prepared to discuss this assignment in our Legal Analysis class on August 20th.

3. Be sure to have read the course syllabus prior to our August 20th class. It is posted on TWEN.

I look forward to meeting you. In the meantime, enjoy the rest of your summer!
**Exercise 1 – Griggs in paradigmatic form – (derived from Neumann, pg. 176)**
In the column marked “Paradigm Label”, identify the passage as either “Rule”, “Rule Proof”, “Rule Application” or “Conclusion”.

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<tr>
<th>Sentence #</th>
<th>Paradigm Label</th>
<th>Text</th>
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<td>1</td>
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<td>In Maryland, a person is guilty of receiving stolen property when he: (1) receives from another person (2) property that at the time of the receipt had been stolen (3) knowing that it has been stolen and (4) with a fraudulent intent in receiving it. <em>Carroll v. State</em>, 6 Md. App. 647, 252 A.2d 496 (1969).</td>
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<td>At about 1A.M. Officer Ochs found Griggs in possession of the floor mat and Anti-Bandit. Both were later shown to have come from a BMW that was stolen between 9 and 10 o’clock the previous evening. Griggs admitted that the radio and floor mat were not his.</td>
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<td>Hence, Griggs was in exclusive possession of a stolen radio and a stolen floor mat, and, since they were recently stolen, the receipt element is satisfied.</td>
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<td>Where a defendant is found in unexplained and exclusive possession of recently stolen property, a receipt from another person will be inferred. <em>Mills v. State</em>, 3 Md. App. 693, 241 A.2d 166 (1968).</td>
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<td>In <em>Carroll</em>, the defendant met an acquaintance on a deserted back road and purchased a car engine from him at substantially below market value. While driving off with the engine in his truck, the defendant was arrested and subsequently convicted of receiving stolen goods. On appeal, he argued that because he had no direct knowledge that the property was stolen, he could not be convicted of receiving stolen goods.</td>
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<td>The Court of Special Appeals rejected this argument and held that a defendant’s knowledge of property’s stolen character can be proved by evidence showing that under the circumstances the defendant “knew or could reasonably have suspected that the property in his possession was stolen.” <em>Carroll</em>, 6 Md. App. at 650, 252 A.2d at 498.</td>
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<td>The court further held that mere possession itself can be significant circumstantial evidence of guilty knowledge, although it is not alone dispositive. Id.</td>
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<td>Because of the prosecution’s obligation to prove guilt beyond a reasonable doubt, a conviction can be based solely on circumstantial evidence only where “the circumstances, taken together… exclude every reasonable hypothesis or theory of innocence.” <em>Mills</em>, 3 Md. App. At 697, 241 A.2d at 168.</td>
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Therefore, Griggs knew or could have reasonably suspected that the BMW floor mat and the Banzai Anti-Bandit radio were stolen property.

For intent to be fraudulent it “need not be *lucrī causa* [for the sake of gain], but … merely hostile to the title of the true owner.” *Carroll*, 6 Md. App. At 650-51, 252 A.2d at 498.

In *Carroll*, the defendant’s possession of the engine was fraudulent because he planned on installing it in his own car, which was certainly hostile to the title of the true owner.

Here, Griggs’s actions show a similar intent. First, he had the radio and floor mat in his van. Second, he had used the Anti-Bandit to quiet his baby and the floor mat to free his van from the mud. Third, although Griggs told Officer Ochs that he “hadn’t had a chance” to decide what he intended to do with these items eventually, he had started the van’s engine and was beginning to drive off.

Therefore, Griggs had a fraudulent intent when he received the Anti-Bandit and floor mat.

Although a defendant is presumed innocent, and the prosecution must prove guilt beyond a reasonable doubt, “the trier of facts in a criminal case . . . is not commanded to be naïve and to believe without scrutiny every glib suggestion or farfetched fairy tale.” *Berry v. State*, 202 Md. 62, 67, 95 A.2d 319, 321 (1952).

Therefore, Griggs will be convicted of receiving stolen goods.
“No Vehicle” Synthesis Assignment

One of the skills critical to being a good legal writer is the ability to synthesize rules from multiple authorities. Synthesis is the process of distilling a single understanding of the rule from a number of different legal authorities. You will ultimately be required to synthesize the case authorities that you are given for Assignment 1. Before you undertake that task, you will practice synthesizing a rule using the attached series of abbreviated case authorities.

The attached exercise contains a statute and four case synopses. Assume that these are the only authorities in your jurisdiction that address the question of when vehicles may be brought into a city park. Your job is to synthesize these authorities and write a coherent rule statement that takes all of the authorities into account. Your “rule” statement should also include your “proof” or “explanation” of the rule.

Essentially what you will be doing is writing what you think is the current state of the law on whether a vehicle may be brought into a city park. As a context for this exercise, assume that you are writing for a lawyer who is unfamiliar with the statute and cases. You want to give this reader enough information so that she will be able to apply the law to new fact patterns.

In writing your synthesis, you should cite to your authority for each sentence by putting the name of the case (or statute) at the end of the sentence, as follows:

The purpose of the “no vehicle” statute is to protect people in the park from unnecessary disruption. Ambulance Driver.

Prior to our second meeting you should do the following:

1. Fill out the attached chart with the rules from each case.

2. Attempt to synthesize a rule of the overall state of the law on this issue, and write a full rule proof using the holdings of the cases. Your rule and rule proof should be no longer than two paragraphs. You may handwriting this assignment.
**SYNTHESIS EXERCISE**

**Statute**

#1: "No person shall bring a vehicle into a city park."

**Case #1: Ambulance Driver**

**Facts:** A boy fell through the ice in the park, and an ambulance driver brought an ambulance into the park to save the boy.

**Issue:** Did the ambulance driver violate Statute #1?

**Holding:** No, there’s an exception for necessity.

**Reasoning:** The purpose of the “no vehicle” statute is to protect people in the park and park property from unnecessary disruption. Here, the ambulance was necessary to save a human life.

**Case #2: Tree Trimmer**

**Facts:** A tree trimmer hired by the city entered the park to trim dead branches off the trees. He brought a cherry picker into the park to reach the trees and haul away the branches.

**Issue:** Does the “necessity” defense apply to the tree trimmer?

**Holding:** Yes, the tree trimmer’s vehicle was also a necessity.

**Reasoning:** Prior case law has held that Statute #1 is not violated where a vehicle is necessary to save a human life. Here, although no life was at stake, the tree trimmer’s vehicle was necessary for two city purposes: to prevent dead limbs from falling on people, and to beautify the park, which was another purpose for enacting the statute.

**Case #3: Ice Cream Cart**

**Facts:** A man selling ice cream from a two-wheeled push cart was cited for violating the statute.

**Issue:** Is a two-wheeled push cart a vehicle under Statute #1?

**Holding:** Yes, the ice cream cart is a vehicle within the meaning of the statute.
Reasoning: The cart has wheels and is used to store ice cream. Although the cart remains on the sidewalk, people eating ice cream leave their wrappers on the grass. Therefore, the vehicle violates the statute’s purpose.

Case #4: Skate Boarders

Facts: Twelve year old kids rode skateboards through the park at 10:00 p.m.

Issue: Is a skateboard a vehicle under Statute #1?

Holding: Yes, a skateboard is a vehicle, and therefore the kids violated Statute #1.

Reasoning: The purpose of the statute is to protect people and park grounds. Here, skateboards have wheels, are dangerous, and ruin grass. Therefore, they are vehicles within the meaning of the statute.
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<th>Determinative Facts</th>
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