

**Legal Analysis, Writing, and Research (“LAWR”) I  
Fall 2015  
Professor Colesanti, Section A2**

**--FIRST ASSIGNMENT—  
DUE AT THE START OF CLASS ON THURSDAY, AUGUST 20TH**

Prior to our first class, please do the following:

1. Purchase the 4 books listed below, if you have not previously purchased them. They are all available in the Hofstra Bookstore. Please do not purchase solely the “e-version,” as laptops and electronic readers are not allowed in class.

- Neumann, “Legal Reasoning and Legal Writing”;
- ”The Bluebook, A Uniform System of Citation” (20th ed.);
- Osbeck, “Impeccable Research”; and
- Strunk & White, “The Elements of Style.”

2. Sign up for the class TWEN page (on Westlaw). I use TWEN to communicate with the class, so it is imperative that you register as soon as possible.

3. Read:

- Chapters 6-8, and 9 -12 in Neumann, as well as Appendices A & B.
- “The Bluepages” of the Bluebook {approx. pp. 1-25}
- The “Course Guidelines” {available on TWEN}
- The “Core Grammar for Lawyers Memo” {available on TWEN; requires action}

4. Prepare:

- The “Griggs” exercise that is included below. Label each of the 15 numbered sentences as “Conclusion,” “Rule,” “Rule Proof,” or “Rule Application.”
- The “No Vehicle” Synthesis Assignment also included herein.

**LAWR I - Professor Colesanti – August 2015**

**--TOPIC I EXERCISES--**

NOTE: These “Griggs” and “No Vehicle” assignments may be handwritten. All subsequent assignments (per the Course Guidelines) need to be typed, double spaced with one inch margins, using 12-point Times New Roman font. Please bring two copies of each completed assignment to class, one to be handed in, and one for you to work with during class. Your final grade in this class will reflect your timely and accurate completion of all assignments, including these.

Exercise 1 – Griggs Exercise (derived from Neumann text)

One of the initial skills to be acquired in Legal Writing is the identification of passages – a “Rule Application” would logically not appear before a “Rule.” Accordingly, on the lines following each numbered passage, identify the passage as either “Rule,” “Rule Proof,” “Rule Application,” or “Conclusion”.

1

In Maryland, a person is guilty of receiving stolen property when he (1) receives from another person (2) property that at the time of receipt had been stolen (3) knowing that it has been stolen and (4) with a fraudulent intent in receiving it. Carroll v. State, 252 A.2d 496 (N.Y. 1969).

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2

At about 1 a.m. Officer Ochs found Griggs in possession of the floor mat and the 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.

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3

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.

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4

Where a defendant is found in unexplained and exclusive possession of recently stolen property, a receipt from another person will be inferred. Mills v. State, 241 A.2d 166 (N.Y. 1968).

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5

In Carroll, 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.

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6

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.” Carroll, 252 A.2d at 498.

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7

The court further held that mere possession itself can be significant circumstantial evidence of guilty knowledge, although it is not alone dispositive. Id.

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8

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.” Mills, 241 A.2d at 168.

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9

Therefore, Griggs knew or could reasonably have suspected that the BMW floor mat and the Banzai Anti-Bandit radio were stolen property.

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10

For intent to be fraudulent it “need not be *lucri causa* [for the sake of gain], but . . . merely hostile to the title of the true owner.” Carroll, 252 A.2d at 498.

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11

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.

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12

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.

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13

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

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14

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 naive and to believe without scrutiny every glib suggestion or farfetched fairy tale." Berry v. State, 225 A.2d 319, 321 (N.Y. 1952).

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Therefore, Griggs will be convicted of receiving stolen goods. \_\_\_\_\_

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### Exercise 2 - “No Vehicle” Synthesis

One of the skills critical to being a good legal writer is the ability to synthesize a sole Rule from multiple sources. *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 Writing Assignment I. Before you undertake that task, you will practice synthesizing a rule using the attached series of abbreviated case authorities.

Specifically, the exercise below 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.

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. An example appears below:

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

Overall, you will do the following:

1. Fill out the attached chart (including individual Rules from each case).
2. Attempt to synthesize a Rule of the overall state of the law on this issue using the holdings of the cases. Your Rule can be handwritten, and you should bring two copies to class (one to hand in, and one for you to use in class).

*\*THE SYNTHESIS EXERCISE BEGINS HERE.  
Please note that there are 3 steps to this exercise.*

STEP ONE: Read all the items below carefully.

*Statute* : “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?

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 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 ?

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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STEP TWO: Complete this Synthesis Chart

CASE	VEHICLE OR NOT?	PRINCIPLE	KEY FACTS
1.			
2.			
3.			
4.			

