

Legal Analysis, Writing, and Research ("LAWR") I Fall 2023

Professor Colesanti

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--Section A1: FIRST ASSIGNMENT--

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Prior to our first class on Wednesday, August 23rd, please do the following:

1. Purchase the two books listed below, if you have not previously purchased them. They are available in the Hofstra Bookstore.
 - Colesanti, "Legal Writing, All Business", and
 - "The Bluebook, A Uniform System of Citation" (21st ed.).

You may use the e-versions of these books. There is only one edition of my text. For the Bluebook, the most recent (i.e., 21st) edition is the best choice.

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 you are given a Westlaw password (during Orientation week). The class is titled, "Colesanti LAWR I Fall 2023".

3. Read the following:

- Pages 1 - 24 in The Bluebook.
- Chapters I and II of "Legal Writing, All Business". NOTE: You need not complete any exercises in these Chapters at this time, but, of you are so tempted, the exercises make for good practice.
- The "Course Guidelines" appearing on the TWEN page.

4. Try Briefing a Case: Use the Internet to locate *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946). In no more than 2 pages (single-spaced), answer these questions:

1. Who sued whom?
2. For what?
3. Under what authority?
4. Who won?
5. Why? (what was the reasoning?)
6. What was the practical outcome?

*Please type your Brief and bring it to class. It shall not be collected, but we shall go over it in detail.

5. Prepare the following assignment:

“No Vehicle” Synthesis Assignment

This assignment, which has two parts, must be typed and submitted to me before the start of the first class at my email address of j.s.colesanti@hofstra.edu.

All assignments must be double spaced with one-inch margins all around, using 12-point Times New Roman font. Please bring an additional copy of each completed assignment to class, 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 homeworks.

Background

One of the skills critical to being a good legal writer is the ability to synthesize Rules from multiple sources. A statute, by itself, rarely provides all of the authority necessary to resolve an issue of law. "Synthesis" is thus the process of distilling a single understanding of the Rule (called a “Rule of Law”) from a number of different legal authorities.

For example, imagine that your task is to locate the Rule of Law for registering an automobile in New York. You learn from various sources that the driver must provide an insurance card (and it cannot be expired). They must also pay a fee of \$125. The driver also cannot have a suspended license, and that license must have been issued by the State of New York. Additionally, trucks and motorcycles and commercial vehicles have special requirements. And the car cannot be over 20 years old.

Your resulting Rule would look something like this:

To register an automobile for personal use in New York, the registrant must complete the following tasks: 1) obtain a current insurance card for an auto that is less than 20 years old, 2) maintain a valid New York license, and 3) pay a fee of \$125. Special requirements exist for trucks, motorcycles, and commercial vehicles.

Note that the Rule (a complete sentence) is specific to a jurisdiction (i.e., New York). The Rule also employs a “conjunctive test” (i.e., utilizes numbers, as well as the word “and”) to ease the reader’s burden and readily communicate that all required elements are of equal weight. Accordingly, the most important word in the Rule might be “and”, for it communicates that failure to satisfy all three steps means no license shall be given.

Exceptions/additional factors to consider appear last – we shall call these helpful tips “Flavor”. This notion of formulating an efficient Rule shall be dwelled upon in class, and you will ultimately be required to synthesize more elaborate case authorities for Writing Assignment I.

For now, practice synthesizing a Rule using the brief authorities appearing below.

Specific Instructions

The 3-step exercise below contains a statute and four case summaries. 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 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, although quite experienced, is unfamiliar with the issue of laws that protect parks. You want to concisely give this reader enough information so that they will be able to apply the law to new fact patterns posed by future clients.

Note also that the rules of citation require you to explain the origin of an authority. Thus, 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. The cite may be underlined or italicized: The goal is to distinguish it from the prose. 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 chart appearing below (including individual principles from each case).
2. Attempt to synthesize a Rule of the overall state of the law on this issue.
3. E-mail to me both the chart and the Rule (with cites) that you have created before the start of class on August 23rd.

STEP ONE: Read all of the authorities 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 the statute?

Holding: No. Although the statute definitely applies, there is 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 thus brought a cherry picker truck 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 cherry picker is a vehicle, but it 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 the 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 the statute?

Holding: Yes, a skateboard is a vehicle, and therefore the kids violated the statute.

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.

STEP TWO: Complete this Synthesis Chart.

CASE	VEHICLE OR NOT?	KEY FACTS	HOLDING
Ambulance Driver			
Tree Trimmer			
Ice Cream Cart			
Skate Boarders			

STEP THREE: In no more than two paragraphs, write the resulting Rule. Remember to include cites (i.e., the name of the authority from which a principle is gleaned). The Rule should identify the jurisdiction, state a collection of principles, and include the exceptions.
