



## A First Generation's Guide to Law School



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*MELISSA A. HALE*



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# Instructions to Student

This guide includes interactive questions and exercises. Your scores and answers are not being saved. The questions are there solely to help you learn and engage with the material. Some exercises allow you to export a Word file of your answers so that the work you put into the question can serve as a resource for you down the line.

This guide also includes suggestions for interactive lessons posted at CALI's [website](#). Access to the CALI Lessons requires membership, either through your law school or an individual membership. Students can confirm that their law school is a member [here](#). Additional information about membership is available at CALI's website.

CALI also makes select materials available for nonmembers, at [www.openlegaleducation.org](http://www.openlegaleducation.org).

# About the Author

Melissa is the Director of Academic Success and Bar Programs at Loyola University Chicago School of Law. She received her B.S from Central Michigan University, and her J.D from New England School of Law. She focuses her research on teaching methods, including such presentations as: Tracking for the MBE: How to Help Students Identify Problem Areas and Improve (May 2016), The Middle Child Problem: How to Engage 2nd Year Students with Active Learning (May 2019), and Putting First Gen First: Supporting First Generation Law Students through Academic Success (October 2019). She has also published bar essay writing books for California, New York, and Massachusetts, as well as the “Ultimate Guide to the UBE.”

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# Dedication

*In loving memory of Deloris “Honey” Cornett, who was the support and driving force in helping me become a first-generation college and law student. She will always be in my teaching and would want all first-generation students to know that they belong!*

# Prologue (or “Who is a First-Generation Student?”)

This is written as a guide for first-generation students who are entering or are currently attending law school. What does that mean? Typically that means someone who is the first in their immediate family to attend college. However, there are various ways to describe “first-generation”; some people use it to mean the first in your family to go to law school as well. There is not a perfect definition. However, this book is geared mostly toward those who are in law school and were the first in their family to attend any level of college. That being said, anyone who is a bit worried they might not belong in law school, or is concerned that everyone else will know more than they do before classes even start, should please read on!

As for me, my grandparents had to leave school at ages 12 and 13 to take care of siblings and work. My parents are both high school graduates, but neither of them went to college or any other type of higher education. I have no aunts or uncles that went to college. In fact, of my great grandmother’s 20 plus great-grandchildren, I am the first to attend college, and certainly the first to attend graduate school. Though, I do have a younger second cousin who is now a medical doctor. (Great-grandma talked about the two of us a lot!) There was no one in my family to ask about the “norms” of college, and certainly no one to ask about law school. That is why I’m writing this book—so that other students who may have been in my shoes feel like they have a guide, or the inside track, if you will.

Please keep in mind that this is largely written from my perspective—a white cis-gendered heterosexual woman who grew up in suburban Detroit. The thing with first-generation students is that, like with so many things, we are not a homogeneous group, and no two experiences are the same. To that end, I’ve also pulled on my 10-plus years of teaching and advising law students, as well as literally asked my students and colleagues who are first-generation, “What do you wish you had known?” I’ve also asked them to include stories and perspectives of their own—you’ll find these stories throughout the guide—so hopefully there is something that speaks to everyone.

The best advice I can give you is that you DO belong. If you were accepted to law school, the admissions team knows what they are doing, and you DO very much belong. It will be tempting, at times, to feel otherwise. It’s easier said than done, but please do what you can to shut that voice down, whether it’s an internal or external voice. Also, don’t be afraid to ask questions. I mean this sincerely. You might feel alone, and you might feel like your question is stupid. Both are untrue. There are more of us out there than you think. I promise that

some of your classmates, professors, administrators, and future bosses are or were first-generation students. And we are all happy to answer questions, and not judge.

Hopefully, reading this book will give you a better idea of what to ask, and where to start. Good luck!

“You are not alone! Don’t be hesitant to ask questions of your peers, your professors, and the student support offices at your school. Also, stay curious, and don’t be afraid to make mistakes. Learning from your mistakes and imperfections and growing from them is part of the process.”

–Professor Tina Benigno, Saint Louis University, Class of 2017

## A Note on How to Use This Book

Sometimes too much information can be overwhelming, and that is certainly not my goal. I merely want to provide you with information that I wish I had prior to entering law school, but I do realize it can all be a bit much.

If something doesn’t make sense right away, or it all feels a bit too daunting, take a step away and come back to the book later. You can also save certain parts of the book for further along in the semester—that is fine.

For example, if you are reading this in the summer before law school, it might be some time before you start reading and briefing cases, which means my chapter on reading and briefing might be too much too soon. If that’s the case, skim it a bit so you get an idea of what reading and briefing is, and then come back to it in your first couple of weeks of classes. Similarly, there are chapters on how to study that might not be useful until you are a few weeks in. This book is meant to be a useful tool and resource, so take what you need right now and come back for more later.

# I. The Basics, or What to Expect When You Don't Know What to Expect

If you are a first-generation law student, law school itself can seem like a completely different world—a world where you have very little navigational help. At least, that's what it felt like for me. I had never even met a lawyer and assumed that I was the only one in this boat. I also assumed that no one had as many questions as I did. First and foremost, everyone is feeling overwhelmed, so you're not alone. And because I felt so desperately lost when I started law school, I present to you the guidebook I wish I had!

First, let's discuss some basics on what to expect. Remember that law school is a professional school, which alone makes it different. If you were like me, you don't know anyone who had been to professional school, so you have no idea what it means. My goal is that by the end of this chapter you will understand more about what makes law school different, and what to expect.

## I. Learning A Brand New Vocabulary

First, law school uses a brand-new language. I remember getting my schedule and thinking “What is a tort?” and feeling very much that I was in over my head. For the record, a tort is a “civil wrong,” such as stuff like slip and falls or car accidents. But I didn't know that! I thought, “Is a torte a fancy chocolate cake?” So, I created a “Law School Glossary” for you in the appendix. It is by no means exhaustive, but it is a list of commonly used law school words that you may not know. In addition, I have written a CALI Lesson on vocabulary that can supplement this chapter. See the CALI Lesson [Law School Lingo: How to Navigate a Brand New Vocabulary](#).

I'm sure you are expecting the law to have a unique vocabulary when it comes to actually learning about the law, but law school itself even has its very own “lingo.” Even before orientation, you will hear words like “1L,” “hypos,” and “mock trial.” I've tried to cover all of the lingo that might come up, but some of it varies from law school to law school. For example, during my first semester at one school, someone mentioned students going on a “bar review.” Well, since “bar review” is part of my job title, I thought “I have to be involved in this.” Turns out, I did not need to be involved in this at all, as it was how the students referred to going out socially on Thursday nights.

Also, remember that like with any other new language, if you see or hear a word you don't know or understand, look it up! Or ask. Either is acceptable. I would suggest that when looking words up, make sure you are using the legal definition. A good resource is "Black's Law Dictionary." If possible, buy a portable Black's Law Dictionary and keep it with you as you read cases. Your library might also have online options available, which may be more cost effective and certainly easier to carry around. It's important to make sure you are using a legal dictionary in lieu of a normal dictionary because often legal words have very specific definitions, whereas the same word might be used in a different way by non-lawyers. For example, my grandmother often used to say "hearsay" to refer to a rumor. If someone in the family was spreading gossip, for example, she'd call us out and say, "Oh that's just hearsay, we don't know that for sure." When you take evidence, you will learn that hearsay has a very specific legal definition. Grandma was close in the way she used it, but legal definitions call for far more precision. In addition, if you search for "tort" but accidentally include an e, you'll get a cake. While far more delicious than a civil wrong, it certainly won't help you in your first-year classes.

You may often hear words that you think you know, but that you don't quite understand in the law school context. For example, I'd often heard about "legal clerkships" while in law school. Now, my mother had been a secretary for years, and sometimes was called a "clerk," so I thought "legal clerkships" were secretarial or administrative positions. While there is nothing wrong with that, I couldn't understand why my classmates would want to be legal secretaries after graduation; that seemed odd. Little did I know that when a law student applies for a legal clerkship, they are working for a judge. And this doesn't mean they are doing administrative work, but rather, legal research and writing. It's actually fairly prestigious. I wish I had thought to ask someone, but I was embarrassed. With this book, I'm going to try to give you as much exposure to those kinds of terms as I can, but I cannot possibly cover everything. So please ask questions, don't be embarrassed, and look things up.

Finally, law school often uses shorthand or abbreviations, and to the uninitiated, it may seem very odd. Some of these are also included in the glossary. For example, people will often use  $\pi$  to mean plaintiff, or K to mean contract. Or, things like "1L" to mean first year, or "hypo" to mean hypothetical. It can be very frustrating, especially if you feel like you haven't been let in on the secret. I'll be honest, after even a semester of law school, you will forget that there was a time when you had no idea what these abbreviations meant. This means that students who have been in law school for at least a year, as well as your professors, often forget that these are not words and abbreviations that everyone uses. So, when they use the abbreviations without explanation, they are not doing it to exclude you or as some kind of test; it's mostly just a force of habit. When I train my tutors, who are second-year law students, I remind them that the incoming students will not know the shorthand they have grown accustomed to using. Despite this, I find myself still referring to things such as



“hypos” instead of hypotheticals or “civ pro” instead of civil procedure during orientation. I don’t mean to, and I certainly don’t want to alienate my fellow first-generation students, but it is a habit. You will find yourself saying the same things out of habit very soon. This means that you should not feel any shame or hesitation in asking what a particular word means.

It is also helpful to remind yourself that so many others sitting with you in class are also learning this language for the first time. Even the students who are not first generation do not know it all. Sure, maybe they have at least heard the words in passing, but that doesn’t mean they know what everything means, or that they have accurate definitions.

#### Interactive Questions: Law School Vocabulary



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=28#h5p-1>

## II. Read Carefully

Law School, and the practice of law, rely heavily on your ability to read carefully. This will be one of the most important skills you can master, and reading things multiple times is recommended. This is so that you don’t miss important information.

First, you will receive folders and folders of information between admission and orientation, and again during orientation. Start a filing system, electronic or otherwise. Look carefully for emails that come from the admissions office or other administrators. Often those emails contain information about programs or other events, and these things can have deadlines. It might be tempting to think that you don’t have to pay attention to emails until you actually start classes, but you may miss great school programming. When reading these emails, pay careful attention to deadlines or other directions. I also realize that the amount of information you will be given during orientation is overwhelming. That’s normal. The best thing you can do is find a good place to organize it all, and have it as a reference for the first

few weeks of classes, and beyond. You can use an online calendar, paper calendar, phone reminders, or whatever has worked for you in the past. Even though law school can feel like a completely new experience, some of what has worked for you in the past will continue to work for you moving forward. And law school, even as early as being admitted, is a good time to set up organization systems, calendar systems, and reminder systems to see what will work for you and serve you throughout your career.

In addition, there is an expectation that for most of your courses you will have read the syllabus before the first class. You may even have an assignment before the first class. The potential to have an assignment before classes even started came as a shock to me; in my undergraduate experience, it was normal for the professor to use the first class to go over the syllabus and end class early. In law school, there may never be a point where the professor reviews the syllabus with you, so it is up to you to make sure that you are following the directions and assignments contained within the syllabus.

Some syllabi are more detailed than others; they may include grading policies, attendance policies, how to turn in assignments, and/or course expectations. Essentially, they are a guide to your course, and you want to read them very carefully.

See below for a glimpse into my syllabus. The heading gives you basic information—what is the class, when is it, where is the classroom, where is my office, and so on. This seems fairly straightforward, but it's all vital information!

**BAR EXAM FUNDAMENTALS SPRING 2022**

**Professor Melissa A. Hale**  
**Class:** Saturdays, 1-3:30 PM  
**Classroom:** 1104  
**Professor's Office:** Room 1026, or Zoom  
**Professor's Email:** [Mhale@luc.edu](mailto:Mhale@luc.edu)

Now, let's skip ahead into my syllabus—what do you learn from this next section? Answer the questions that follow.

### Grading

The class is Pass/Fail. Whether you pass is determined based on the following point system. There are **900 total points**, and you need **550 points to pass**. Please note that while it may be possible, in some instances, to accumulate 550 points without sitting for the midterm or the final, you will not receive a pass for the class without sitting for both exams even if you have 550 points.

I expect that all assignments will be submitted on time, and done in good faith. If they are not, they may be subject to a loss in points. If you are struggling to complete an assignment, or to complete it in a timely fashion, please reach out.

### In class and Take Home Essays

You are encouraged to use your notes on all in class and take home essays. Notes include the law and quick sheets on Sakai, notes that you take yourself, or any other source you find helpful. Just please make sure that source is reliable. ***Notes will not be permitted on the midterm or final.***

Please note that ALL essays are required to be turned in via a word document. **The document should be saved with your name in the title, i.e., *Hale.Melissa.Crimessay.doc*.** If some form of your name is not in the document title, it will not be accepted and will be considered late.

## Interactive Questions: Reading a Syllabus for Key Information



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=28#h5p-2>

Part of law school is to train you to read directions very carefully, or just read carefully in general. Being an attorney is all about reading paperwork carefully. That being said, law school is the time to learn, and potentially mess up. It is far better to miss a deadline or mess up instructions during law school (even though there can still be severe consequences in law school) than it is to mess up during the practice of law. I tell my students that I have very specific instructions for a reason, so I do expect that they will be followed. For example, when my students turn in an essay, they are expected to save the document as “Name Subject” before uploading. This is clear in the syllabus. This is not arbitrary. Imagine 45 students turning in documents with the title “Contracts Essay” or “Essay on Contracts.” How would I ever keep them organized? This not only benefits me, the professor, as I try to

give feedback, but benefits the student since I can double-check I'm returning the correct essays to the correct students. Also, it means that when they want to talk about feedback or go over an essay, it's easy to find. Even if that essay is older, it's going to be organized by their name so it will be easy to find. I do explain my reasoning to students, as I firmly believe that when you teach adult learners, it helps to be transparent about why certain rules are in place. However, not every professor is transparent in their reasoning. Even if they seem arbitrary, practice reading all directions and rules carefully.

I sometimes give my first-year students a "reading and briefing" assignment, and it's really a "following directions" assignment. At the top, it says "Read all questions before you begin" and there are about 14 questions. Question 13 says not to answer anything above Question 13, and Question 14 says "What is your name?" I admit, it's a bit sneaky, but it does two things: it tells me who is reading carefully, and it shows the students the importance of reading carefully. Mostly because they are given about 30 minutes to complete the assignment and the first 12 questions are very difficult. So those students who do follow the instructions are done very quickly and can have a bit of a break.

I don't do this to be cruel; I do it so they can make mistakes with me. It's better that they screw up or fall on their face with me, rather than in legal practice. I won't penalize them. Sure, I want them to follow directions and read carefully, but I want that so that they learn the skill for practice. If someone names their document "Contracts Essay" I usually resave it with their name and remind them in their feedback to read directions. They still get points for their essay, and nothing has happened that they are not able to bounce back from or learn from. This is the same with the following directions assignment. No one who "messes up" is penalized. It's meant to be a learning experience, and a reminder moving forward.

It is important to note that there are times in law school when you might be penalized for failure to follow instructions. I have seen students lose points on exams for not carefully reading instructions, and at times, they end up getting an answer wrong because they didn't read carefully. So, there can be real consequences. However, it's still better to learn this habit in law school and suffer the consequences now, instead of while in practice.

### III. Classes

You want to be prepared for class. I'm here to be completely honest with you, so for honesty's sake, I will admit that during my undergraduate years I was not always prepared for class. Much depended on the class and topic, but I often viewed class reading as more of a

suggestion. This approach is unlikely to work in law school. You want to do the class reading and be prepared to participate.

In law school, most professors use “cold calling,” meaning they will ask questions of students randomly. This means you will be expected to answer questions about the reading even if you do not volunteer.

Many law professors use something called “The Socratic Method.” “Developed by the Greek philosopher, Socrates, the Socratic Method is a dialogue between teacher and students, instigated by the continual probing questions of the teacher, in a concerted effort to explore the underlying beliefs that shape the students’ views and opinions.”<sup>1</sup>

In short, this means that students are expected to participate in class and answer questions about cases and the law. This can feel very intimidating.

However, the point of class is to learn. The expectation is that you have done the reading and briefed the cases. (In later chapters, I’ll give you tips on how to do the reading more effectively as well as answer the question, “What on earth is briefing?”) The expectation is a good faith effort, not perfection. You might get called on and get an answer wrong. That’s okay! Despite how it feels on that day in class, it’s not the end of the world. It often feels like everyone is staring at you and judging you for getting the answer wrong. First, no one is staring at you; they are likely looking down taking a deep sigh of relief that they were not called on. And they certainly aren’t judging you, because it’s a good bet they didn’t know the right answer either. You will remember being called on, and not getting the answer right, and you might remember it for years. But no one else will.

I have met with many students who are a bit worried about “not getting it all” prior to class. Specifically, they feel prepared in the sense that they have read the cases and briefed those cases, but still feel a bit unprepared when students or professors ask the “what if” questions. The students that come to me feel worried that if they aren’t “getting” the “what if” questions, they didn’t fully prepare.

First, you might be thinking, “What is a ‘what if’ question?” This is often part of the Socratic Method: a professor might go over a case that you read and then say, “Well, what if this had happened instead?” or “What if I changed this one fact?” This is designed to help you learn to think like a lawyer, and no, you aren’t going to get it right away. Also, this is part of the process of learning. The “what if” questions help you learn to analyze a problem, which is what you’ll be doing on the exam. So you are meant to follow along in class, but it’s okay if you don’t have the answers before class or even during class. It’s a learning experience. Also, I promise you will get more comfortable with this process as you go.

It is important to remember that your time in class, even when being cold-called, is about

learning the material. Yes, you must read before class and do your best to understand it, but if you are completely confused about what you just read, that is normal.

## IV. Time Management

Time management and punctuality are great lawyering skills. Depending on the type of law you are practicing, deadlines are either incredibly important or they are absolutely critical. In addition, it's not unusual to work on multiple cases at one time, juggling them all simultaneously.

You will be expected to hone your time management skills during law school. Because law school is a professional graduate program, attendance in class, and showing up to class on time, are both expected. It is also expected that you will turn in assignments in a timely fashion; some might not even be accepted past the deadlines. Again, this is not dissimilar to being a practicing attorney.

However, just as when you are practicing law, life will happen, and that is okay. You are human, so you will get sick or have other emergencies. And just like you must do in practice, you have to notify the relevant people. In law school, that is usually the professor, dean of students, or academic success director. Let them know of the emergency as soon as you are able (within reason) and they will generally be able to accommodate you.

In addition, since many classes only have one to two exams, you are responsible for holding yourself accountable. No one will check in to see if you are staying caught up on the reading or whether you're briefing. This means that time management is essential. It's easy to get behind with no "checking in," so setting up study time for yourself, and sticking to it, can be vitally important.

Here is a CALI Lesson on time management in law school: [Time Management: Creating Your Plan](#).

The CALI Lesson on time management I've linked above has some excellent advice, but here are a few general tips to help:

- Create daily, weekly, monthly, and semester-based calendars. It might seem like a bit much, but you want to see the "big picture" of the semester, as well as what you need to accomplish in any given day or week.
- Create to-do lists that separate out the "must accomplish" today/this week/this month versus "would like to accomplish" today/this week/this month.

- Set reminders (electronic reminders on your calendar or phone can do wonders<sup>2</sup>) of important deadlines. Don't just set the reminder to go off just before the deadline—set staggered reminders for larger projects.
- Use the Pomodoro Technique if you need help focusing. Pomodoro means “tomato” in Italian, and was developed by Francesco Cirillo in the 1980s to help him focus on his studies. The basic idea is that you pick a task, set a timer for 25 minutes (Cirillo called this the Pomodoro Technique because he used a timer that was shaped like a tomato), and focus on just that task. Then, when the timer goes off, take a 5-minute break. If the task is something that takes longer than 25 minutes, do this multiple times, giving yourself a longer 15 to 20-minute break after 4 “Pomodoros.” Many lawyers swear by the Pomodoro Technique.<sup>3</sup>

## V. Grading and Exams

One of the things that makes law school so different is that grading is typically focused on one final exam at the end of the semester. Some law schools and professors are now adding in midterm exams and quizzes, but that is not always the case. If there are no quizzes or midterms, it's hard to determine if you are grasping the material and on the right track. This can be incredibly daunting, but again, remember, it's normal to feel that way. This means developing a strong habit of self-direction will come in handy.

Grading is also often curved during law school, especially during the first year. This means that there has to be a certain percentage of the class that receives each grade, essentially meaning your performance is judged relative to others versus in an absolute way.<sup>4</sup> This might be a new experience, as well. It's tempting to feel like you are competing against your classmates, and while that is partially true, you can't let it impact you too much. Peer support is vital to your success in law school, either through study groups, discussions with your classmates, or just the support you might get from one another.

Because there isn't always a “right” answer in law school exams—there is often only the best answer, or the best-explained answer—and because you feel like you are competing against students who grew up listening to their parents discuss legal concepts at the dinner table, the curve can be daunting and distracting. It's still important to be collegial and kind—you will likely be practicing law with these people someday. And competing against students who have grown up with lawyer parents in a class in which the professor grades on a curve doesn't mean you can't, or won't, succeed. I will also let you in on a secret: lawyer parents don't always give great advice! The practice of law in a given jurisdiction can be very different

from what a professor expects to see on an exam, so having lawyer parents can actually be counter-productive.

I can't lie, grades are important. They can be important for securing your first internship or summer job, and they can be important for allowing you into certain student activities. But they do not define you as a person, or a future attorney. A large part of my job is to work with students who don't do well in their first semester, and while they aren't jumping for joy with their grades, they do go on to become successful practicing attorneys! So work hard and do your best, but know that grades are not everything.

## VI. Be Engaged

Like with many things, you get out of law school what you put in. This means that if you are engaged in class discussions, you will learn more. If you attend law school activities or join student groups, you will build a better community for yourself. When things come up, such as student social activities, go! Some of you may not be super social and I get that, but you are meeting your future colleagues. Not everyone has to be your best friend, but it is good to have a network and support system that you can lean on.

Also, even though it can be daunting at first, go see your professors. They will hold office hours, which are designated times you can just drop in and chat or ask questions. You should absolutely take advantage of the office hours. Not only is it a great opportunity to get to know your professors, and for them to get to know you, but who better to explain concepts you may have missed? I will discuss office hours in greater length in Chapter 4. I also have an entire chapter devoted to extracurricular activities, so feel free to dive into that chapter and find something that interests you.

## VII. Orientation

Orientation is the official start of law school. Each school sets up orientation in a different way. Some are two days, some are an entire week.

Typically, though, all orientations are part administrative and part “learning how to be a law student”; it might just be that the focus is different depending on the law school.

For the administrative part, this is typically getting your student ID and log-ins, meeting faculty and administrators, being assigned lockers (if your school uses them), and generally



getting the stuff you need to exist as a student. And the bonus is that most schools provide so much free food and law school swag!

Then, there is the other part of orientation: the part that teaches you. This is the start of your classes, and you want to pay attention. Typically, there will be a mock class and maybe sessions on reading and briefing, how to use the library, and so forth. It might be tempting to not take these things seriously, as classes haven't officially begun, but I promise it is very much worth it to pay attention to these sessions. You will also feel exhausted—even a two-day orientation can feel incredibly long like you can't possibly hold more information in your head. That's normal!

This is the perfect time to start getting organized or to test out your organization systems. You should take notes during orientation and organize them well so you can reference them at a later date. For example, put in the contact information of various administrators you might meet and how they can help you or what they do, and put important dates in your calendar as soon as you can. Orientation is the start of your legal career, so in many respects, treat it like a job.

## **VIII. Remember, It's a Professional School**

You are attending law school to be a lawyer, presumably. This is likely obvious, but what is less obvious is that day one of orientation, or even earlier at meet and greets, is day one of your professional life. Yes, you are still in school, but when you go out into practice your classmates and professors will be your colleagues. This means that how you treat your fellow classmates will be remembered.

I do not say that to scare you, but to remind you that this is now a professional environment where your reputation matters. And, we only have one professional reputation.

Look around you at orientation and in class. If you look to your left and right, you'll see your future colleagues. These are the people who will be working with you and referring clients to you, and they might be in a position to hire you or help you find a job. Don't be a jerk. Be civil, be kind. Be civil to everyone in law school—because it will help you, but also because it's the right thing to do.

It can be daunting to be a first-generation law student, but always remember you are not alone. Lots of people have been where you are now. Below are two stories, both demonstrating these feelings.

“While I don’t usually identify as a first-gen student because both of my parents had advanced degrees, I am the first and only lawyer in my entire extended family. This did, unfortunately, put me back a bit when I started law school since I was just totally unfamiliar with some of the basics. I remember sitting in a course about how to do law school—one of BarBri’s summer program offerings—and being so upset that students around me already knew what a tort was and understood how elements of negligence worked. It never occurred to me that there was a difference between civil and criminal proceedings. I was really blown away by the analysis of statutory components. Others seemed to intuitively know there was a difference between “may” and “shall,” and even though I was an English teacher before coming to law school it took a while for me to really understand that.”

-Jenna Silver, Class of 2017

Despite the fact that she felt a bit overwhelmed at first, I can tell you that Jenna did graduate, pass the bar, and now helps other students feel welcome at law school! Here is another story from a fellow professor.

“When I got to law school, I thought that I knew what to expect. I had done a lot of research—on different law schools, careers, student loans, what “cold calling” was, you name it—and I felt like I had a decent sense of what I was getting myself into.

In one sense, this turned out to be true. While 1L year was challenging, there was not much about the courses, exams, or professors that surprised me, thanks to the research I had done ahead of time. At the same time, though, there was a whole other layer to law school that I did not know how to navigate, and that I had not anticipated in the first place. In short, I experienced a culture shock related to my status as a first-generation law student.

To begin with, I was taken aback with how many of my classmates had parents who worked as lawyers or judges. A parent with decades of experience in the legal field is a truly invaluable resource; they can act as a permanent, on-demand mentor. By definition, of course, first-gen lawyers and law students do not have access to this resource. Relatedly, some of my friends had done law-related internships in college, or worked in a law firm or at a court prior to law school—opportunities they noted had been easy to line up through their family connections. I was not prepared for how insular the legal world is, or for how many people have access to that world even before they begin law school. Access, of course, means knowledge: many of my classmates seemed to already know things about the law, and about the legal profession, on day one of law school. I knew essentially nothing. For at least the first year of law school, I felt like an outsider.

That changed. I began to feel more at home as a law student once I reminded myself that I was there for a reason, and it was not because I did (or did not) have a specific background. Rather, it was because I had worked very hard to get to law school in the first place, I had a genuine interest in (and passion for) the law, and I knew I wanted to be a lawyer.

While I realized that many of my classmates might be better connected than me, I resolved to not let

that fact define my own professional journey, or to prevent me from forming meaningful friendships and professional relationships with lawyers with all types of backgrounds. In addition, seeking out opportunities—like internships or electives that I was enthusiastic about, for example—helped me define my law school experience on my own terms, not by how I perceived others’ relationship to the legal field. In essence, I realized, my background—my strengths, abilities, and unique life experiences—was also a massive asset, even if it differed from the more traditional (and connected) paths some of my colleagues had traveled. I still believe that each person’s background is one of their greatest strengths, provided they can recognize it as such. First-generation lawyers often bring varied, eclectic skill sets and experiences to their practice—which ultimately helps them connect with their clients. In turn, these lawyers are able to more effectively advocate for clients of all kinds.”

-Professor Conley Wolters

I share both of these stories because both of these people survived and thrived in law school, and so will you!

I hope that gives you a bit of an idea of what to expect in law school. Now you can dive into the rest of the chapters to learn things in more detail, and like law school itself, you will get more out of it if you participate!

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[1](https://friday.app/software/online-calendar-planner) Both Google Calendar and Microsoft Outlook will offer reminders. There is also an app called “Friday” that helps you plan your to-do list (<https://friday.app/software/online-calendar-planner>) and another app called “Todoist” does the same ([https://todoist.com/home?gspk=c2VtYW50aWNsYWJzNzMxNw&gsxid=BUzUPEjU6BVW&sid=1-b-9c1531e74caa1a0507a753b45783d3e8&utm\\_campaign=strategic\\_partner&utm\\_content=semanticlabs7317&utm\\_medium=strategic\\_partner&utm\\_source=partnerstack](https://todoist.com/home?gspk=c2VtYW50aWNsYWJzNzMxNw&gsxid=BUzUPEjU6BVW&sid=1-b-9c1531e74caa1a0507a753b45783d3e8&utm_campaign=strategic_partner&utm_content=semanticlabs7317&utm_medium=strategic_partner&utm_source=partnerstack)).

[2](https://friday.app/software/online-calendar-planner) Both Google Calendar and Microsoft Outlook will offer reminders. There is also an app called “Friday” that helps you plan your to-do list (<https://friday.app/software/online-calendar-planner>) and another app called “Todoist” does the same ([https://todoist.com/home?gspk=c2VtYW50aWNsYWJzNzMxNw&gsxid=BUzUPEjU6BVW&sid=1-b-9c1531e74caa1a0507a753b45783d3e8&utm\\_campaign=strategic\\_partner&utm\\_content=semanticlabs7317&utm\\_medium=strategic\\_partner&utm\\_source=partnerstack](https://todoist.com/home?gspk=c2VtYW50aWNsYWJzNzMxNw&gsxid=BUzUPEjU6BVW&sid=1-b-9c1531e74caa1a0507a753b45783d3e8&utm_campaign=strategic_partner&utm_content=semanticlabs7317&utm_medium=strategic_partner&utm_source=partnerstack)).

[3](https://todoist.com/productivity-methods/pomodoro-technique) For more information, see this website: <https://todoist.com/productivity-methods/pomodoro-technique>. And here is an online Pomodoro tracker: <https://pomodoro-tracker.com/>.

[4](#) The curve is the permitted range of each letter grade that can be awarded, for example, 0-3% A+, 3-7% A, etc. Curves vary between different law schools, as do the rules for when the curve is mandatory versus suggestive. For example, in most law schools,

curves are mandatory for a class with above a certain number of students (so most first year courses) but not classes with under a certain number of students.

## 2. But I Already Know How to Study!

### I. Introduction

You might already be wondering why there are so many chapters on studying. I mean, you made it to graduate school, certainly you know how to study, right? Sure, but studying for law school is very different. We're going to talk about why.

The biggest reason for the difference is that you are not learning facts or figures, but rather, you are learning a new skill: how to think like a lawyer. As I mentioned in Chapter 1, learning the law is a skill. For some reason, this isn't obvious to most law students, or many practitioners. It's viewed as a lofty intellectual pursuit, where people can have very robust intellectual conversations about various aspects of the law. And sometimes it is, I suppose. But mostly, it's a skill. And in your first year of law school, and sometimes your second and third years, you have to remember you are learning a NEW skill and learning to master something you've never done before.

I present to you, by way of an example, how I learned to roll a cake:

See, I've been baking since I was a little girl. I started baking with my grandpa, learning to make banana bread, brownies, and cakes. I bring this up because I don't consider myself a baking novice. I'm not an expert, but I thought I had skills. So, when my British husband declared that he really missed yule logs (which can be purchased in the US, but the store-bought kind is never the same I guess) I leaped at the challenge to master a new baking skill.

I first watched about three videos on "how to roll a cake." I learned that you: 1) use a jelly roll pan (thinner pan, like a cookie sheet); 2) put the cake on a towel RIGHT AWAY; 3) roll it; 4) unroll it; 5) frost it; and finally 6) roll the cake again. I used my normal chocolate cake recipe and got to work. You see, I've baked cakes so many times before, and I really like my recipe. I'm comfortable with it, too. I was excited and whipped it up just like I always do. I baked the cake. I put it on the towel and rolled it. I set the roll aside to let it cool. I felt pretty pleased—all seemed to be going well—and I was excited to unroll and frost it. But, as I unrolled it, it came apart in pieces. Delicious pieces that I ate—I'm not a fool—but it wasn't supposed to unroll in pieces.

The next day I decided to try again. After all, it's what one does. I asked the internet for more advice and watched a few different videos to see if I could learn anything new. The only thing I picked up was that I may have rolled it while it was TOO hot. So I did everything the same

but waited until it was warm instead of hot. Rolled it again. This time it came out in FEWER pieces, but pieces just the same. My husband and I were delighted to eat the mess, but I kept pondering what I needed to do to roll this cake.

I'm not going to lie, I was frustrated. True, I was enjoying the delicious cake, but it was still frustrating to not get the results I wanted.

So, instead of just watching videos on the actual rolling of the cake, I opted to go look at some yule log, swiss roll, or roulade (all rolled cake) recipes. I noticed something strange: the recipes were not like my recipe at all. The ingredients were vastly different. I picked a yule log cake recipe and tried again. This time it worked! The different recipe meant a different cake consistency, so a better roll!

Why does this matter? Why is this like studying the law? Well, first and foremost, I went with a preconceived notion of what I knew and what I could do. It took two attempts before looking back and thinking that I might need to change my initial recipe. But that made all the difference. Often, students come in with a preconceived notion of what they know, how to study, or even how to write. They are often shocked to find out that legal writing is vastly different from what they did prior to law school, or even what they considered “good.” The same can be said for study habits. Remember, my sheet cake recipe is delicious, and undisputedly so, but it didn't work for what I wanted to do, which is to roll the cake. That doesn't mean that it doesn't make a great sheet cake, it just doesn't work in THIS context. The same is true of your writing and studying: your prior writing skills and study skills may be great, and work for some things, but perhaps not law school. You may also have other legal experience—maybe you took a constitutional law or business law class in your undergraduate years, or worked as a paralegal. But that information might not work in THIS context. And all of that is okay! It's more than okay—it's why you are in law school.

But why do I bring up this analogy? Because it was frustrating. It was frustrating to fail and not bake in the “correct” way because I view myself as a good baker. It turned out my mindset was vitally important; I AM a good baker, but I had to be willing to learn a new skill, or a new recipe, in this particular context. You are likely a good student and are good at studying, but you have to be willing to learn new skills in this context. Practicing, and learning from your mistakes, is key to honing that skill.

Also, I'm not the only one that loves a good baking analogy!

“I analogize my experience as a first-generation law student to being asked to bake a very elaborate

cake without a recipe or ingredients. My first several weeks of law school I looked around at my classmates and felt sure that while we were all expected to bake the same cake, they had both the recipe and the necessary ingredients to do so, while I was lacking both. For them, it would simply be a matter of execution, while for me it would mean figuring out what this “cake” even was and, assuming I could do that without any sense of what it was supposed to look like, where in the heck could I get the ingredients to make it. Of course, the truth was that I was not the only first-generation student in my law school class who felt this way, but what we know call “imposter syndrome” kept us from sharing our fear and uncertainty with each other, so we each set out to bake our cakes alone. My story is ultimately a happy one. Through a lot of hard work, support from understanding faculty and staff mentors, and my innate stubbornness, I did discover the recipe, gather my ingredients, and bake my cake. It was by no means a perfect cake. My baking process was longer and more painful than many of my classmates who came to law school with more educational experience and familial stability than I did, but I suspect that very few of them were as proud of their end product as I was.”

-Professor Sam Panarella

## II. Lawyering, and Law School, as a Skill

As I’ve noted, learning the law is a brand-new skill that takes practice. Many students who have previously done well struggle in their first semester of law school and get very frustrated. That is perfectly normal. But think back to learning any new skill—riding a bike, knitting, playing an instrument, even walking—they all took practice.

Throughout this book, I am going to address the various ways that law school is a brand-new skill, or rather, how to perfect those skills. But it is important to give yourself some grace and focus on small improvements.

Think about someone learning to play the piano for the first time. They start small, with a simple song. They master something with a few notes, maybe even starting with just one hand. They aren’t concert-ready in the first week. They are also going to make many mistakes as they learn. In fact, even professional concert pianists are going to make mistakes as they learn new pieces. The key is to learn from each mistake.

So, as you go through your first semester, learn from each mistake and give yourself the grace to make mistakes. I see too many students that think that if they aren’t “getting it” right away there is something wrong with them. I promise you that there isn’t. Learning the law is a skill that is developed over months and years, and is exactly why you are here!

So what IS that new skill you are learning? You may have heard that law school teaches you to “think like a lawyer,” but very few people can tell you what that entails, or even what “thinking like a lawyer” means. But they tell you over and over that you need to learn how to do it.

Well, to put it simply, “thinking like a lawyer” means rules-based reasoning. This essentially means that everything must start with a rule, or the law. In addition, it means that lawyers use analogical reasoning, which is any type of thinking that relies upon an analogy. Essentially, this is the skill you will need to use on all of your exams.

And you DO need to learn how to do it. But how?

First, you need to understand that an analogical argument is “an explicit representation of a form of analogical reasoning that cites accepted similarities between two systems to support the conclusion that some further similarity exists.”<sup>1</sup> What does this mean? Well, it means that lawyers compare and contrast things.

For example, people always say “you can’t compare apples and oranges,” but in fact, you can compare apples and oranges.

#### Interactive Question: Comparing Apples and Oranges



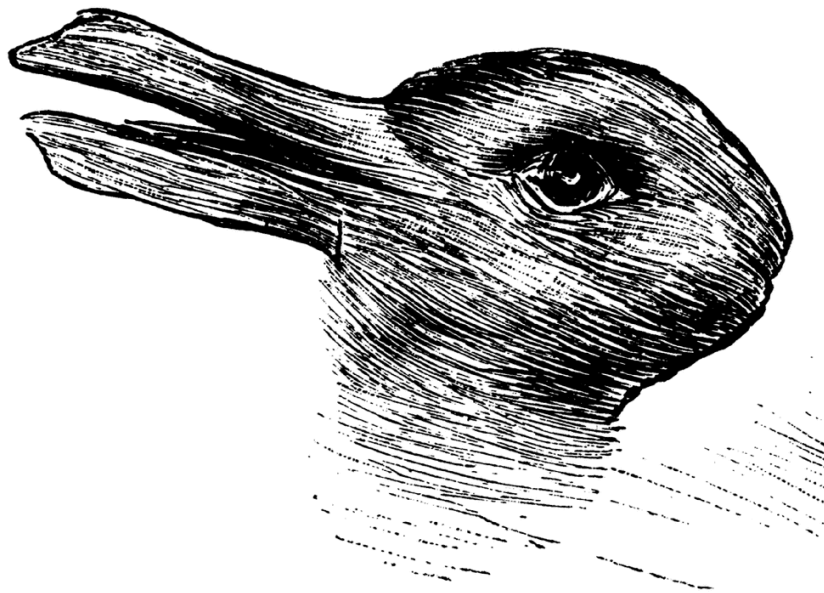
An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=31#h5p-3>

The other part of this thinking is something called the “Gestalt Switch.”

Take a look at this picture:





Most people either see a duck or a rabbit. Depending on which you saw, try to describe to someone else how they might find that animal. For example, if you know that I only saw a rabbit, and you see a duck, tell me how to see the duck:

#### Interactive Question: The Gestalt Switch



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=31#h5p-4>

When you can see both photos, and explain both photos, that is called the “Gestalt Switch” and that is what lawyers regularly do. Lawyers have to see both sides of the situation and then be able to explain both sides. In doing this, they usually start with a rule and then explain why the rule may, or may not, apply.

For example, how does one define a sandwich, and where might you go to look for a definition? Suppose someone asked you whether a hotdog was a sandwich. You might laugh and answer yes or no based solely on your gut response. However, lawyers need to first ask,

“Well, what makes a sandwich a sandwich?” and base their answer on that definition. They can’t just say “I don’t think a hot dog is a sandwich because I said so”—they have to base that answer on a rule and explain their reasoning.

Maybe we find out, based on restaurant reviews, that sandwiches tend to be meat, and or cheese, with various condiments or vegetables, put between bread. Well, based on that definition, it sounds like a hotdog is very much a sandwich. But it gets trickier when we realize that there are exceptions and you can have sandwiches without meat or cheese! What then?

I realize this sounds complicated, but this is “thinking like a lawyer” distilled down. Don’t worry, it will get easier as you go, and it will become more natural as well. It just takes practice. I wrote a CALI Lesson that can help: [Analysis 1: Thinking Like a Lawyer](#). One of the reasons I urge you to learn, and practice, thinking like a lawyer is because it’s what you will need to do on your law school final exams.

### III. Grit and Growth Mindset, and Why They Are So Very Important!

The secret to success in law school is the same as learning any other skill: practice. But to practice, and to learn from that practice, takes a great deal of grit and an attitude that embraces a growth mindset.

Most experts accept that having both grit and a growth mindset is important, and are perhaps THE most important factors in success; not just in law school, but in most areas where “success” can be measured. The following is from the Law School Academic Support Blog:

Grit is defined, by the Merriam-Webster dictionary, as “firmness of mind or spirit, unyielding courage in the face of hardship.” Growth mindset is a frame of mind, a belief system we adopt to process incoming information. People with a growth mindset look at challenges and change as a motivator to increase effort and learning. Most experts agree that grit and growth mindset are the most important factors in success.<sup>2</sup>

According to Angela Duckworth, author of *Grit: The Power of Passion and Perseverance*, grit is the most important factor in success. That same Law School Academic Support Blog article goes on to say:

Angela Duckworth is a professor of psychology at the University of Pennsylvania,

and founder and CEO of Character Lab. She started studying why certain people succeed, and others don't. She began at West Point Military Academy, studying why some complete the "Beast Barracks", essentially a boot camp, while others drop out. Given that to get into West Point, there was a certain similarity of background, in term of grades, extracurricular, etc. she set out to see if she could predict who would make it, and who wouldn't. It turns out they couldn't predict this based on grades, or background, but could base it on a grit scale that Prof. Duckworth created. The grittier the West Point cadet, the more likely they would complete the "Beast Barracks". She later expanded on her studies and found that the grittier you were, the more likely you were to complete a graduate degree. She further expanded this to other professions, Olympians, etc, and found that generally, the more grit you had, the more like you were to succeed.<sup>3</sup>

Since you are in law school, it will benefit you to look at what grit is, and why it factors into success. The good news is that you can learn to be grittier!

Professor Duckworth devotes an entire chapter to being "distracted by talent." Meaning we, as a society, tend to see successful people or students and think "They are so talented," as if what they were doing was effortless. In fact, we don't see the hard work and the long hours they put in. She uses Michael Phelps, swimmer and multiple Olympic gold medalist, as an example. People see him swim during the Olympics and think "Oh, what talent." But what they don't see, what they gloss over, is the time spent in the pool—the hours upon hours of practice, of setbacks, of learning from mistakes.

Similarly, as a law student, you may see classmates answer questions in class and think "Wow they're really smart," but you aren't seeing the hard work they put in. Nor are you seeing the setbacks, mistakes, and wrong answers. For your own mental health, it's important to remind yourself that what looks like talent is usually hard work.

Professor Duckworth believes that the focus on talent distracts us from effort, which is more important to success. I would argue that not only is she correct, but this tendency to focus on talent causes law students to become frustrated or lose confidence when they feel they are not a "natural." One of the underlying secrets of law school is that no one is a "natural"! The unique demands of law school are new for everyone. If you are looking at classmates and thinking "This is so easy for them," don't be fooled—there is a learning curve for everyone!

The important thing is to realize that your hard work and effort are far more important than any natural ability and to focus on that during law school. Do not get discouraged when you feel that things don't click right away, or come "naturally." If your first law school feedback is negative, don't assume that you aren't talented or smart enough to be there—remember that everyone is facing the same learning curve and the same challenges. You've most likely

heard that to become an expert, you must spend 10,000 hours in practice. This is true for the practice of law as well. Even when you graduate, and pass the bar, you are not an “expert” until you’ve been practicing for quite some time. You are not trying to be an “expert” during law school; rather, you are putting yourself on the path to expertise.

Practicing does make it easier, which in turn makes you feel more talented. Basically, to do anything well, you must overextend yourself. During law school, it might already feel like you are overextended in terms of work. But that’s not precisely what I mean. By overextending, I mean you have to do difficult things; things that don’t automatically come naturally to you. This is grit.

According to Professor Duckworth, grit is about working on something you feel so passionately about that you’re willing to stay loyal to it. It’s not just falling in love, it’s STAYING in love. So, you are probably in law school because you want to be a lawyer, and that has been a dream of yours for a while. All of you have different reasons for coming to law school, and you might have taken different paths to get here.

Since grit is about loving what you are doing, or in this case studying, and falling in love with it over and over again, think about why you went to law school and what you want to do with your degree. Law school is hard, and studying is hard, so when you are feeling that challenge and pressure, you want to remember why you wanted to go to law school, what you love about it, and what you want your career to look like. You don’t have to love every subject, and you won’t love every subject, but pick a few things about studying the law that really appeal to you.

Write a letter to yourself to save, whether it’s in a Word document or a notebook or on your phone, so that when you need to fall in love again with why you went to law school, you can.

In addition to grit, you also have to understand what Dr. Carol Dweck refers to as a “fixed mindset” and cultivate what she coined as a “growth mindset.” Someone with a fixed mindset means you think intelligence and talent are innate, unchangeable traits, whereas someone with a growth mindset believes you can develop these things with practice. Don’t worry if you tend towards a more fixed mindset. Despite the name, you can change a fixed mindset, and learn how to embrace a growth mindset.

Professor Dweck explains the negative impacts of a fixed mindset on someone’s capacity to learn:

Believing that your qualities are carved in stone creates an urgency to prove yourself over and over. If you have only a certain amount of intelligence, a certain personality, and a certain moral character, well then you’d better prove that you have a healthy

dose of them. It simply wouldn't do to look or feel deficient in these most basic characteristics.

I've seen so many people with this one consuming goal of proving themselves in [a learning setting], in their careers, and in their relationships. Every situation calls for a confirmation of their intelligence, personality, or character. Every situation is evaluated: Will I succeed or fail? Will I look smart or dumb? Will I be accepted or rejected? Will I feel like a winner or a loser?

But when you start viewing things as mutable, the situation gives way to the bigger picture.

This growth mindset is based on the belief that your basic qualities are things you can cultivate through your efforts. Although people may differ in every which way in their initial talents and aptitudes, interests, or temperaments, everyone can change and grow through application and experience.

This is important because it can actually change what you strive for and what you see as success. By changing the definition, significance, and impact of failure, you change the deepest meaning of effort.<sup>4</sup>

In short, if you focus on learning for learning's sake, and not the end result like grades, you will get more out of your effort!

Your mindset can change depending on what the task or subject is. Most people don't have a fixed mindset on everything, nor do they have a growth mindset on all things. For example, if you met me in real life, you'd know that I was tone-deaf. Being tone deaf did not stop me from being in a marching band for four years of high school. I even managed to play the saxophone AND percussion! This, for someone that "isn't supposed to be good at music."

In contrast, I've always assumed I'm just "naturally" bad at science. As a result, I've never really made an effort to get better at science.

Different types of mindsets might interact with grit. For example, I loved playing piano, despite how difficult it could be, but never developed any such love of math. This meant that with the piano I had more "grit," which led to a growth mindset about learning, and then, in turn, led to success in the way of piano trophies!

Find out how "growth" or "fixed" mindset you are [here](#).<sup>5</sup>

## Reflection Exercise: Growth Mindset



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=31#h5p-5>

### a. Succeeding Through Failure

Failure is part of the learning process. However, failure is hard, and to be honest, we don't talk about it enough. That's on us, as lawyers and educators. Society doesn't allow us to be as forthcoming about failure as we should. It is impossible to have success without failure. Mistakes lead to success.

Each failure is an opportunity to learn and improve. This is not a series of mere platitudes—it is science. For example, Wayne Gretzky is nicknamed “The Great One.” His career stats prove him to be one of the best hockey players ever. So, by all accounts, we would consider him successful. He has four Stanley Cups, 61 NHL Records, a Wikipedia article for JUST his career achievements, and a freeway in Canada named after him. Let's break those stats down: He spent 20 years in the NHL and earned 894 goals. That's impressive. But to get to 894 goals, he had to take 5,088 shots on goal. **That's a 17.6% success rate.** I would never malign The Great One, but that means he missed 4,194 of those shots. Each shot missed was a failure. But each shot missed was an opportunity for Gretzky to learn and get better. Those career stats do not include his non-NHL years—in some of his earlier seasons, he scored 0 goals. In his first season with the NHL, he scored 51 goals. But he scored 92 in his 3rd season—that's almost double. I can promise you he was learning from each failure and from each shot on goal that didn't make it into the net. I know he learned from his failures because he was a wise man, and he is quoted as saying “**You miss 100 percent of the shots you never take.**” This means the man knew about growth mindset!

That's enough of my sports analogy, and you can replace Wayne Gretzky with your favorite

athlete, favorite actor (ask how many auditions they had to fail before getting their big break, or how many movies flopped), favorite politician, etc. Or, better yet, talk to your law professors or lawyers you admire and ask them how many times they failed.

The important takeaway is that to embrace a growth mindset, you have to view failure as an opportunity to learn and improve.

This may seem counterintuitive when I'm encouraging you to be resilient and grow. However, it's important to know you CAN fail. Or rather, you can SURVIVE failure. Imagine failing at your next project, and think about what that failure means; what is the worst that can happen? What will it feel like? What next steps will you take?

Generally, it's good to move forward with a positive mindset. However, knowing that you can come back from failure, and having a plan on how to do it, will help increase the likelihood that you will take more chances. Taking more chances increases the likelihood of success. Let's work through an example of creating a plan.

#### Reflection Exercise: Succeeding Through Failure



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=31#h5p-6>

The best way to learn from failure, or get used to learning from failure, is to take risks. This goes along with pushing yourself out of your comfort zone. For law school, this might mean things like doing practice hypotheticals before you feel 100% “ready,” or getting feedback from professors even if you are nervous about showing off a draft of something.

As you move along in your law school career, this might mean joining things that might otherwise seem daunting, such as moot court or law review. These risks will pay off because they will allow you to learn more about lawyering, which should be your ultimate goal.

So, let's put into practice everything we've been talking about. Write down something, on a

sticky or in your phone, that you've been afraid to do but want to try. Keep that note with you until you complete it!

## b. Forget Perfection

There is a saying among writers, which is “done is better than perfect.” While the law is a career where things like attention to detail are important, if you become too obsessed with perfection, you won't complete the things you need to. For example, striving for perfection in legal writing might mean that you skip turning in drafts where you can get feedback. On exams, the idea of perfection might keep you from moving on to the next question, or paying attention to time constraints. This happens in practice as well, where lawyers get so focused on the “perfect” memo or “perfect” complaint that it interferes with productivity, or worse, their client's best interests. Yes, having a good quality work product is important, but perfection is an impossible standard.

It is also important to note that right now, as you are a law student, you are not meant to be perfect. You are meant to be trying and learning and improving.

As I mentioned before, practice DOES make perfect er... success. That's the entire idea behind grit. If you keep practicing, and learning from each practice, you are on your way to success. This also means not giving up. It's tempting, especially in the early stages of learning any new skill, to throw in the towel when you get frustrated. A key element of grit is persevering when you feel that temptation to quit. Resisting the temptation to give up can be difficult. To help, think of a mantra to tell yourself in those moments. Put it on a notecard or sticky note, and put it on your computer or mirror.

Remember, if you view “failure” as a learning process, your mindset shifts. Each time you feel frustrated, or feel like you haven't performed as well as you had hoped, remind yourself that you are still learning.

In this chapter, we've been discussing how important it is to practice to improve a skill. If you'd like to “practice” and review grit and growth mindset, check out the CALI Lesson [Grit, Growth, and Why it Matters. Or, how to be gritty!](#)

This is all going to be very different, and challenging. But you CAN do it. And in fact, being a first-generation student can absolutely work as an advantage:



“I’ve talked a lot about the challenges first-gen students face in law school and in the legal profession because, frankly, I’ve had to overcome almost all of them with varying degrees of embarrassment, shame, and feeling like I’ve had one hand tied behind my back sometimes. But there is one thing I don’t talk enough about and it’s this: Being a first-gen law student (and later a first-gen lawyer) gives you an enormous advantage and that’s grit. Yes, that’s a popular buzz word these days but the secret is that us first-gens have had this on lock since the moment we walked through those law school doors. We’re plucky, diverse, hard-working, and we know what it means to earn our triumphs. Figuring things out on our own just comes naturally because that’s what we’ve always done. We haven’t met a road block we can’t climb over, swerve around, or crawl under. Grittiness is to first-gens what privilege is to those whose families were able to smooth their way with prior experience, and it is a real superpower in this profession. You’ll be tested in every possible way in law school and in the legal profession and guess what? You’ll be ready. Because you always have been.”

-Professor Ashley London

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<sup>1</sup> Bartha, Paul. “Analogy and Analogical Reasoning.” Stanford Encyclopedia of Philosophy. Stanford University, January 25, 2019. <https://plato.stanford.edu/entries/reasoning-analogy/#:~:text=An%20analogical%20argument%20is%20an,that%20some%20further%20similarity%20exists>.

<sup>2</sup> Foster, Steven, ed. “The Importance of Growth and Grit.” Law School Academic Support Blog. Oklahoma City University, February 26, 2020. [https://lawprofessors.typepad.com/academic\\_support/2020/02/the-importance-of-growth-and-grit.html](https://lawprofessors.typepad.com/academic_support/2020/02/the-importance-of-growth-and-grit.html).

<sup>3</sup> Id.

<sup>4</sup> Dweck, Carol S. *Mindset: The New Psychology of Success*. New York: Ballantine Books, 2016.

<sup>5</sup> “Assess Your Mindset to Begin Your Journey Today.” What’s My Mindset? Mindset Works. Accessed May 17, 2022. <https://blog.mindsetworks.com/what-s-my-mindset>.

### 3. Preparing for Class

You have done a lot of studying in the past. After all, that's how you got into law school! Still, nearly everyone finds that they have to step up their game for law school, since there is typically a lot more class preparation expected in law school. When you're in your first year, be careful not to underestimate the amount of time and focus you need to study. The American Bar Association standards and rules for law schools state that for every in-class credit hour, there is a minimum of two hours of out-of-class work.<sup>1</sup> Meaning that if your torts class is three credit hours, you should plan to spend six hours a week preparing for that class. Most first-year semesters have around 15 credit hours a week, meaning you should plan to work an additional 30 hours each week outside of class time.

That being said, remember that you are going into class to learn. This might seem obvious, but I meet with many students who suffer needless pre-class anxiety because they feel like they must know *\*everything\** before going into class. The whole point of class is to help you learn, so of course you don't need to know everything!

It's important to be prepared—that is, at least have done your reading and briefed your assigned cases (more on briefing cases in the second half of this chapter). But if you did the reading, and made an effort to brief as I describe below, and you *STILL* don't feel like you know what you read, that's okay. That's what class will be for!

#### I. Reading in Law School

As I mentioned in the first chapter, law school involves reading—lots of reading. I realize that if you are entering law school, you are probably good at reading. However, reading cases for class is different from other types of reading. Plan on carving out more time to read each case than you'd anticipate. This is because the most time-consuming part of studying, or preparing for class, will be the reading.

##### a. What Am I Reading?

In law school, most of your assigned reading during the semester will be out of a “casebook,” which is essentially your textbook. Casebooks contain excerpts from judicial opinions, which

are the written statements of the court setting out its decision regarding a case and how it came to that decision. Casebook authors typically also include discussion, notes, and questions for the student.

Cases that appear in casebooks are primary sources. In the legal context, primary sources are “the actual laws and rules issued by governing bodies that tell us what we can and cannot do.”<sup>2</sup> Constitutions, statutes, cases, and regulations are all considered primary sources. By comparison, secondary sources explain and interpret those original documents; in a secondary source, someone who is usually an expert in the area has read and condensed or translated the material for you.

This often presents a challenge for law students, since, and this largely depends on your background, up until now you have likely been reading only secondary sources. For example, a history textbook typically reads like a story; it will tell you about an event, giving you the dates, significant people, and essentially the story of what happened. However, this meant that the author went through primary documents (like journals, newspapers, and various records), and from that, tells the story that is in your book. Reading the primary sources may feel challenging at first and will likely frustrate you. I want you to know that’s normal. I still vividly remember reading my first ever case, which was an assignment for law school orientation. I have always thought of myself as a good reader and couldn’t understand why I had to read the same three pages about four times—and even then I still felt confused. It frustrated me to tears and made me question whether I was truly prepared for the rigor of law school. Sometimes the cases in a casebook are edited for clarity, but they are still a primary source and it’s up to you to figure out the story, so to speak. Don’t worry, this chapter will explain how to do that. Not only am I going to give you some tips on reading those cases, but I can promise you it gets easier and easier each time you read a case.

For more information about primary and secondary sources, see the CALI Lessons [Legal Research Methodology](#) and [Introduction to Secondary Resources](#).

## b. Appellate Opinions Explained

Most of the cases you will be reading during law school are appellate opinions. The federal judiciary, and most state judiciaries, have court systems that are organized into a three-tier system. At the state level, the lowest tiers are trial courts, where almost all cases begin. When a trial court makes a final decision, a losing party may appeal, which moves the case up to the middle tier, or the intermediate appellate court. Trial courts and appellate courts are called district courts and circuit courts, respectively, at the federal level. The role of appellate

courts is to review the law and whether the judge in the trial court applied the correct law to the facts. “An appeal is not a retrial or a new trial of the case. The appeals courts do not usually consider new witnesses or new evidence. Appeals in either civil or criminal cases are usually based on arguments that there were errors in the trial’s procedure or errors in the judge’s interpretation of the law.”<sup>3</sup> (You will learn more about this during legal research and civil procedure.) Some cases can then be appealed to the highest appellate court, which in most states is the state supreme court, and in the federal court system is the United States Supreme Court.

### c. Why Do We Read Cases?

One of the defining principles of the common law system is the principle known as “stare decisis,” which is Latin for “let the decision stand.” A prior ruling or judgment is known as a precedent. The following excerpt explains how these two interrelated concepts define the common law system:

The doctrine of stare decisis means that courts look to past, similar issues to guide their decisions. The past decisions are known as precedent. Precedent is a legal principle or rule that is created by a court decision. This decision becomes an example, or authority, for judges deciding similar issues later. Stare decisis is the doctrine that obligates courts to look to precedent when making their decisions. These two principles allow American law to build case-by-case, and make our legal system a common law system.

...

So, stare decisis is essentially ‘the rule of precedent.’ Courts cite precedent when a court has already considered a particular legal issue and the court has already issued a ruling.

...

Under the doctrine of stare decisis, courts are expected to follow their own previous rulings and also the rulings from higher courts within the same court system. This means that the Texas state appellate courts will follow their own precedent, and that of the Texas Supreme Court, and also that of the United States Supreme Court. But the district courts in Texas are not obligated to follow rulings from the appellate courts of South Carolina.

All courts are obligated to follow the rulings of the United States Supreme Court, because this is the highest court in the nation, and it has the final say.<sup>4</sup>

Common law is an English tradition, and most countries that currently follow it were former English colonies. If you are practicing law in the United States, you will be practicing in the common law system.

So, in short, reading cases is one place where we get law: law comes from either a statute—a law written by the legislative branch—or a case, and often cases will explain a statute. Your job as a law student, and then a lawyer, will be to read cases to ascertain the applicable law.

#### d. Common Law vs. Civil Law

Common law is different from “civil law” systems that use code. Civil law systems rely only on statutes and not case law. In civil law systems, stare decisis or case precedent isn’t used. In the United States, Louisiana uses civil law. If you are attending law school in Louisiana, you will likely use both systems in your courses (and later in Louisiana practice) because while the state system uses civil law, the federal system uses common law.

#### e. Criminal Law vs. Civil Law

It is important to note that there are two types of law, even within our common law system. There is criminal law and there is civil law—not to be confused with Louisiana and places that rely on civil code. Civil law means that any person can bring a legal claim against another person, or in other words, “sue” that person. Areas of law such as tort law, property law, contract law, and more are “civil.” By contrast, with criminal law, the state by way of a district attorney or other state’s attorney, brings “charges” against a defendant. There are different standards and different procedures for criminal law than there are for civil law. This will be explained in greater detail in your various classes, so for now just note that there are two systems. Both criminal and civil law have trial and appellate courts, and in both instances, you are likely to be reading cases from the appellate level.

So, we read all of these appellate decisions to learn what the law is. You might be thinking, “Why doesn’t my professor just TELL me the law? That’s why I’m here.” Actually, it’s not. You are in law school to learn to be a lawyer, and lawyers need to research the law. The law

continually changes and evolves. Sure, maybe you can memorize the law your first year of law school, but by the time you've practiced for about five years, it will have changed—so then what? We want to teach you how to find the law on your own and how to read those primary sources. My mentor and friend used to say that classes should not be called “contracts” but rather “how to be a lawyer using contract law” and so forth. She's not wrong!

Let's check our understanding of some of these concepts:

#### Interactive Questions: Cases



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<https://halefirstgenguide.lawbooks.cali.org/?p=36#h5p-8>

If you want to learn more about common law, here is a CALI Lesson that can help: [Common Law Basics: What Faculty May Assume You Know](#). Similarly, if you want to learn more about sources of law, check out the CALI Lesson [Where Does Law Come From?](#)

## II. Critical Reading and Reading Cases

In law school, critical reading is incredibly important. Critical reading means that you are doing more than a mere “skimming” of the text. Skimming the text only allows the reader to find superficial characteristics and information. However, critical reading results in enhanced clarity and comprehension, allowing a reader to get at the deeper aspects of the

reading. You may have already had experience in this area as it's likely that if you've read novels for an English class you likely took notes, or annotated, the texts.

Critical reading means that you are *actively* engaging in the reading. When you read cases, you must apply critical reading, or active reading—not passive reading. This is critical, pun intended, for both mastering reading cases and other areas of law school as well!

Critical reading means that you:

- Survey before reading: think about what you are going to read.
- Ask questions: what questions do you have about the reading before you start?
- Read actively: highlight, ask questions, re-read passages.
- Respond to your own questions: answer the questions you had and create follow-up questions.
- Record key concepts: this will be your case briefing (which will be discussed later in this chapter).

You might need to read a case multiple times. I typically tell students to read it once through to get the “story”—the feel for the who, what, where, and when. In fact, some professors tell students to read the case once while “sitting on their hands,” meaning that they can't take notes. Then, re-read the case and start actively engaging with the material. This also means that you can question the reading and question the judge's decisions

Below, we will talk about how to apply these critical reading steps to cases.

## a. Before You Begin Reading

First, what is the assignment? How long is the assignment? How many pages? Have you allotted enough time? How many cases? Do they all deal with the same topic, or does it vary? (Meaning, are they in the same chapter and section, or is it spread across different sections?) Do you need to read any statutes that go along with the reading? If so, pull them up and skim the statutes first. This gives you an idea of what you might be reading.

Before you even begin reading the first case assigned, think about the context of the case. This is your “survey before reading step.” Use the table of contents or syllabus to help you put the reading into context. For example, if you are reading a torts assignment, which tort are you reading about?

Ask yourself, “Is this a new section, or a subsection of material I already started?” For

example, is it about battery, a new type of tort, or is it about an element of battery, such as intent?

Look at the case heading—what is the date and location of this case? Is the time period drastically different? Is this case from the Northeast, or the South? Or maybe even England? Which court is the case from? Is it state court, or federal court? An appellate court?

The professors that edit your casebooks choose certain cases for a reason. They are not random. I know this might seem obvious, but it's easy to forget that as you read. Each case is chosen to teach you something new, so as you read, keep that in mind and ask yourself, “Why this case? Why did the casebook editor think this particular case was important?” They might even put notes or comments in between the cases—pay attention to these as they can be extremely helpful guidance!

Take a look at the casebook table of contents below. The table of contents is from *Torts and Regulation: Cases, Principles, and Institutions* by John Fabian Witt, published by CALI eLangdell® Press. Then answer the questions that follow.

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## Interactive Question: Reading a Casebook Table of Contents



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Now take a look at the case heading below, what can you tell me about the case?

***Garratt v. Dailey*, 279 P.2d 1091 (Wash. 1955)**

You won't know what all of the numbers mean, but you can still pull out some information.

## Interactive Questions: Case Heading – *Garratt v. Dailey*



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<https://halefirstgenguide.lawbooks.cali.org/?p=36#h5p-10>

I realize that seems simple, but knowing where and when the case took place is incredibly helpful. It can also make reading a bit easier. Compare the above case with the below:

***Regina v. Cunningham*, 41 Crim.App. 155, 2 Q.B. 396, 2 All.Eng.Rep. 412 (1957)**

What do you know about this case?

## Interactive Questions: Case Heading – *Regina v. Cunningham*



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So, going back to the first case to summarize, you are reading a case about tort law, specifically battery, that took place in Washington state in the 1950s. We also know that the case is specifically about intent, as it relates to battery. Do this for each case you read to “set the stage.”

Now, prepare to read actively. This is your “ask questions” stage of critical reading. Think about what you already know and what questions you have left. This will be more difficult for the first few cases, but as you get further along in your reading, will become easier. Here, we know this is a torts case that involves battery. Do you think you might know something about battery? Or, are you wondering what battery is? You might have heard the term on the news, or on tv, and so you might think you know what it is already. Therefore, your question might be whether you are correct about your assumptions. If it's the third case you are reading on battery, you already know a little about battery! In this context, you would have already read some cases on battery and know something about the tort.

## b. As You Read

Now it's time for the "read actively" stage of critical reading. As you read, think of the "Factual 411." Look at the case as a story, at least at first. You need to think about what happened to bring the parties to court. Essentially, what went wrong and why are people upset? Make sure you understand the underlying facts first before diving deeper:

You already essentially know the where and when from the case heading.

Who is suing whom for what? (*Don't just rely on the case heading; think about the original lawsuit as sometimes the case headings change.*)

What happened?

Why are the parties upset?

**Keep asking questions as you go.** The questions might be about the facts of the case, or the reasoning, or something else entirely. If you can't answer these questions, they are good to bring up in class.

**Highlight or take notes as you go.** A small caveat: this doesn't mean highlighting everything, as then the point of highlighting becomes, well, pointless.

**Interact with the case.** I have a great colleague who tells his students to yell at and argue with the case. Fight with it if you need to. Now, you don't need to go this far, especially if you are in the library, but you should still actively engage and not just passively read.

Now, let's try to read the case. This is a common torts case that comes up in various casebooks. I'm going to take you through reading and briefing it, but it's important to remember that every professor is a little bit different in how they might lecture and what questions they might ask. This means that the way you brief in one class might need to be changed a bit for a different class. However, the general principles are always the same.

### **Garratt v. Dailey, 279 P.2d 1091 (Wash. 1955)**

Hill, J.

Brian Dailey (age five years, nine months) was visiting with Naomi Garratt, an adult and a sister of the plaintiff, Ruth Garratt, likewise an adult, in the back yard of the plaintiff's home, on July 16, 1951. It is plaintiff's contention that she came out into the back yard to talk with Naomi and that, as she started to sit down in a wood and canvas lawn chair, Brian deliberately pulled it out from under her.

The only one of the three persons present so testifying was Naomi Garratt. (Ruth Garratt, the plaintiff, did not testify as to how or why she fell.) The trial court, unwilling to accept this testimony, adopted instead Brian Dailey's version of what happened, and made the following findings:

III. . . . [T]hat while Naomi Garratt and Brian Dailey were in the back yard the plaintiff, Ruth Garratt, came out of her house into the back yard. Some time subsequent thereto defendant, Brian Dailey, picked up a lightly built wood and canvas lawn chair which was then and there located in the back yard of the above described premises, moved it sideways a few feet and seated himself therein, at which time he discovered the plaintiff, Ruth Garratt, about to sit down at the place where the lawn chair had formerly been, at which time he hurriedly got up from the chair and attempted to move it toward Ruth Garratt to aid her in sitting down in the chair; that due to the defendant's small size and lack of dexterity he was unable to get the lawn chair under the plaintiff in time to prevent her from falling to the ground. That plaintiff fell to the ground and sustained a fracture of her hip, and other injuries and damages as hereinafter set forth.

IV. That the preponderance of the evidence in this case establishes that when the defendant, Brian Dailey, moved the chair in question *he did not have any willful or unlawful purpose* in doing so; that *he did not have any intent to injure the plaintiff, or any intent to bring about any unauthorized or offensive contact with her person or any objects appurtenant thereto*; that the circumstances which immediately preceded the fall of the plaintiff established that the defendant, *Brian Dailey, did not have purpose, intent or design to perform a prank or to effect an assault and battery upon the person of the plaintiff.* (Italics ours, for a purpose hereinafter indicated.)

It is conceded that Ruth Garratt's fall resulted in a fractured hip and other painful and serious injuries. To obviate the necessity of a retrial in the event this court determines that she was entitled to a judgment against Brian Dailey, the amount of her damage was found to be \$11,000. Plaintiff appeals from a judgment dismissing the action and asks for the entry of a judgment in that amount or a new trial.

...

It is urged that Brian's action in moving the chair constituted a battery. A definition (not all-inclusive but sufficient for our purpose) of a battery is the intentional infliction of a harmful bodily contact upon another. The rule that determines liability for battery is given in 1 *Restatement, Torts*, 29, § 13 [1934], as:

An act which, directly or indirectly, is the legal cause of a harmful contact with another's person makes the actor liable to the other, if

(a) the act is done with the intention of bringing about a harmful or offensive contact or an apprehension thereof to the other or a third person, and

(b) the contact is not consented to by the other or the other's consent thereto is procured by fraud or duress, and

(c) the contact is not otherwise privileged.

We have in this case no question of consent or privilege. We therefore proceed to an

immediate consideration of intent and its place in the law of battery. In the comment on clause (a), the Restatement says:

*Character of actor's intention.* In order that an act may be done with the intention of bringing about a harmful or offensive contact or an apprehension thereof to a particular person, either the other or a third person, the act must be done for the purpose of causing the contact or apprehension or with knowledge on the part of the actor that such contact or apprehension is substantially certain to be produced . . .

We have here the conceded volitional act of Brian, i.e., the moving of a chair. Had the plaintiff proved to the satisfaction of the trial court that Brian moved the chair while she was in the act of sitting down, Brian's action would patently have been for the purpose or with the intent of causing the plaintiff's bodily contact with the ground, and she would be entitled to a judgment against him for the resulting damages. *Vosburg v. Putney, supra*.

The plaintiff based her case on that theory, and the trial court held that she failed in her proof and accepted Brian's version of the facts rather than that given by the eyewitness who testified for the plaintiff. After the trial court determined that the plaintiff had not established her theory of a battery (i.e., that Brian had pulled the chair out from under the plaintiff while she was in the act of sitting down), it then became concerned with whether a battery was established under the facts as it found them to be.

In this connection, we quote another portion of the comment on the 'Character of actor's intention,' relating to clause (a) of the rule from the Restatement heretofore set forth:

It is not enough that the act itself is intentionally done and this, even though the actor realizes or should realize that it contains a very grave risk of bringing about the contact or apprehension. Such realization may make the actor's conduct negligent or even reckless but unless he realizes that to a substantial certainty, the contact or apprehension will result, the actor has not that intention which is necessary to make him liable under the rule stated in this section.

A battery would be established if, in addition to plaintiff's fall, it was proved that, when Brian moved the chair, he knew with substantial certainty that the plaintiff would attempt to sit down where the chair had been. If Brian had any of the intents which the trial court found, in the italicized portions of the findings of fact quoted above, that he did not have, he would of course have had the knowledge to which we have referred. The mere absence of any intent to injure the plaintiff or to play a prank on her or to embarrass her, or to commit an assault and battery on her would not absolve him from liability if in fact he had such knowledge. . . . Without such knowledge, there would be nothing wrongful about Brian's act in moving the chair and, there being no wrongful act, there would be no liability.

While a finding that Brian had no such knowledge can be inferred from the findings made, we believe that before the plaintiff's action in such a case should be dismissed there should be no question but that the trial court had passed upon that issue; hence, the case should be remanded for clarification of the findings to specifically cover the question of Brian's knowledge, because intent could be inferred therefrom. If the court finds that he had such knowledge the necessary intent will be established and the plaintiff will be entitled to recover, even though there was no purpose to

injure or embarrass the plaintiff. *Vosburg v. Putney*, *supra*. If Brian did not have such knowledge, there was no wrongful act by him and the basic premise of liability on the theory of a battery was not established.

...

The cause is remanded for clarification, with instructions to make definite findings on the issue of whether Brian Dailey knew with substantial certainty that the plaintiff would attempt to sit down where the chair which he moved had been, and to change the judgment if the findings warrant it.

Now remember, for the first few weeks you might have to read a case a few times. In fact, many practicing attorneys still have to read cases multiple times. Reading cases is not easy reading, even as you get more practice. So prepare to read each case at least twice. Now, let's take it bit by bit as we go through this case a second time.

Brian Dailey (age five years, nine months) was visiting with Naomi Garratt, an adult and a sister of the plaintiff, Ruth Garratt, likewise an adult, in the back yard of the plaintiff's home, on July 16, 1951. It is plaintiff's contention that she came out into the back yard to talk with Naomi and that, as she started to sit down in a wood and canvas lawn chair, Brian deliberately pulled it out from under her. The only one of the three persons present so testifying was Naomi Garratt. (Ruth Garratt, the plaintiff, did not testify as to how or why she fell.) The trial court, unwilling to accept this testimony, adopted instead Brian Dailey's version of what happened, and made the following findings:

So, what do you already know? It seems that the plaintiff is Ruth, and a child pulled out a chair from under her. We still don't have all the details, but it says the trial court adopted the findings immediately thereafter. So there you have the story, the basic idea of what happened.

It is conceded that Ruth Garratt's fall resulted in a fractured hip and other painful and serious injuries. To obviate the necessity of a retrial in the event this court determines that she was entitled to a judgment against Brian Dailey, the amount of her damage was found to be \$11,000. Plaintiff appeals from a judgment dismissing the action and asks for the entry of a judgment in that amount or a new trial.

Now we are told "it is conceded that"—what does that mean? Well, this phrase means that it

is not contested, or rather, all parties agree that the fall resulted in painful injuries. That is not up for dispute.

So now we have a full view of the story: the who, what, where, when, and why. Plaintiff has a fractured hip, and it was the result of a fall from defendant pulling out a chair.

Now we get to the next part of the case:

It is urged that Brian's action in moving the chair constituted a battery. A definition (not all-inclusive but sufficient for our purpose) of a battery is the intentional infliction of a harmful bodily contact upon another. The rule that determines liability for battery is given in 1 *Restatement, Torts*, 29, § 13 [1934], as:

An act which, directly or indirectly, is the legal cause of a harmful contact with another's person makes the actor liable to the other, if

(a) the act is done with the intention of bringing about a harmful or offensive contact or an apprehension thereof to the other or a third person, and

(b) the contact is not consented to by the other or the other's consent thereto is procured by fraud or duress, and

(c) the contact is not otherwise privileged.

We have in this case no question of consent or privilege. We therefore proceed to an immediate consideration of intent and its place in the law of battery. In the comment on clause (a), the Restatement says:

We are seeing two important things here. First, we get a definition of battery. We know the court is using a definition of battery from the Restatements. This will likely be something important to add to your notes, and we will discuss that below. In addition, the court tells you the problem it's trying to solve: **We therefore proceed to an immediate consideration of intent and its place in the law of battery.** This is the court telling you the legal issue, or legal problem, that it needs to solve.

I mentioned before that most cases you read will be appellate decisions. To recap, that means that there was a trial and the case was appealed to an appellate court, which is the current decision-maker. In this case, Plaintiff Ruth Garratt sued Brian Dailey because she alleges he committed a battery when he pulled out the chair from under her and she fractured her hip. The opinion tells you the facts that the court is using; they are not taking new witness statements or viewing evidence and have adopted a set of facts from the lower trial court. Their job, and the job of any appellate court, is to decide the law and how it was applied. In other words, they are not considering whether the facts were correct; we know that young Brian pulled out the chair, we know that the plaintiff was injured, and so forth. That is not up

for debate. What is up for debate is the element of intent. In this case, the court is specifically telling you that it is going to determine the legal issue of intent, and how it applies to battery. So, in the context of this casebook and your torts class, you are reading this case to learn about an element of battery, specifically, intent. This is the “why” of your case.

The case also gives you the definition of intent:

*Character of actor's intention.* In order that an act may be done with the intention of bringing about a harmful or offensive contact or an apprehension thereof to a particular person, either the other or a third person, the act must be done for the purpose of causing the contact or apprehension or with knowledge on the part of the actor that such contact or apprehension is substantially certain to be produced.

The case then goes on to discuss whether Brian, the defendant, had intent, as described above. The case ends with this:

The cause is remanded for clarification, with instructions to make definite findings on the issue of whether Brian Dailey knew with substantial certainty that the plaintiff would attempt to sit down where the chair which he moved had been, and to change the judgment if the findings warrant it.

What does that mean? Essentially, the appellate court hasn't decided whether Brian Dailey had intent, but rather, sent the case back to the original trial court for it to make more “definite findings” on whether Brian knew that the plaintiff would attempt to sit down.

Now that you have a rough idea of what happened in the case, and why it was assigned (to expand your understanding of the intent necessary to prove a battery), we can move on to briefing.

### III. Briefing

Even before you get to orientation, you might hear people talk about “briefing” or “case briefs” or something similar. It's a large part of the law school study process.



## a. What is Case Briefing?

A case brief is a short, or “brief,” summary and analysis of a case. Briefs contain information like the facts of the case, the court’s analysis, and the decision it reached. There is no one “right” way to brief, and there are many different brief “templates.” It is important to brief EVERY case that you are assigned. This takes time, but you will find that you will be far more successful, and much more likely to understand each case, if you fully brief each one.

## b. Why Do We Case Brief?

First and foremost, briefing helps you prepare for class discussion as it organizes your thoughts about a case and provides a tool to reference if you are called on to discuss the case in class. It is an expectation that when you show up for class, you will have read and hopefully understood the material. When you are called on, you will want to rely on your briefs to be prepared, so think of them like organized notes. Your briefs may be different from class to class, as they should be a tool that helps you participate in that particular class’s discussion. Briefing also helps you test your understanding of the case, serves as a helpful study aid down the road, and can serve as a template for additional class notes on that topic or case.

## c. Before You Begin

Think about format. Determine the format that you prefer. This might change as you learn more about briefing and what works for you. Don’t hesitate to change the format you use from time to time, or from class to class. Briefs are personal; they need to make sense to you personally, which means case briefs may vary from student to student. In fact, an individual’s briefs may vary from subject to subject as you may find that you are briefing civil procedure cases using one format and torts cases using another. Not only is this normal, but I encourage you to do so. Each class is going to feel very different—because of the professor, but also because of the way the topic is structured. This means it is very likely your briefs will be different as well. Finally, your brief doesn’t have to look like anyone else’s brief! Use the format that works for you—a Word document, table, template, handwritten, Evernote, Onenote—it’s completely up to you! After you brief a few cases and sit through a few classes, you’ll have a better idea of what you need.

## d. Always Remember Why You Are Briefing

As you brief, and determine your format and style, think about why you are briefing and what you hope to accomplish. Think about how class typically goes, and what information you might need from the case to be prepared for your professor's questioning.

While this will be a bit difficult during your first couple of classes, after a while, you will find your professor's rhythm: how they ask questions and what they expect you to know. For example, one professor might only want a vague recitation of facts from a case, while another might want far greater detail. Adjust your briefs accordingly, and keep this in mind as you brief.

## e. Sections of a Brief

First, think about your case heading. Remember, it can tell you a great deal about the case. It will tell you the year, location, and court. No matter what, this should be at the top of your brief.

Next, while there are plenty of acceptable formats, the thing that all briefs have in common are as follows:

Fact Statement

Procedural Statement

Issue Statement

Rule Statement

Holding/Judgment

Analysis

Dissent (if applicable)

If your professor suggests that you use a particular format—listen to them! They are giving you insight into what they are looking for. You might also have professors refer to these sections with slightly different terms, and that's okay. For example, fact statement might be “fact section,” procedural statement might be “procedural process,” and so forth.

So, what do each of these sections of a brief look like?

## Sections of a Brief

**Fact Statement:** Include relevant facts. You don't need to recite ALL the facts, but you want to have a good idea of the "story" of the case. This is mainly meant to help your memory. What was the Who/What/When/Why? Who was suing who, and for what? Remember to keep it short; it's easy to get bogged down by too many facts. The number of facts you want to include may change based on the class and the subject.

**Procedural Statement:** How did the case get to where it is now? Who appealed and why? Map out the history if you need to. What standard of review is being used? (Just as an FYI, a standard of review is the standard the appellate court uses to examine the lower court rulings. You should hopefully learn more about this in civil procedure, as well as in other classes.)

**Issue Statement:** This is the legal question being asked. What problem is the court trying to solve? Keep a few things in mind:

A case can have more than one issue.

Consider phrasing your issue statement as a yes or no question.

**Rule Statement:** What rule did the court use? This is often what you might take away from the case to apply to other fact patterns. If the court uses or cites a statute, copy and paste that verbatim. If it's not from a statute, it's ok to paraphrase or put it in your own words.

See if you can deconstruct the rule into parts, or elements. An element is an essential part of a claim that must be proven for the claim to succeed. If a rule is a recipe, an element is an ingredient.

Identify the standard/test used for proving this rule (if applicable).

**Holding/Judgment:** This is the answer to the issue statement and only has to be one sentence, though some professors may vary in what they expect. Essentially, this is answering the question "How did the court rule?" In the most basic sense, who won the case? This might include language like "remanded" or "affirmed"—what impact does the holding have on the parties?

**Analysis:** This is the most important part of your brief because it answers the question of WHY a certain party won the case. This can sometimes be the argument of opposing parties, or it can be articulated in the judge's opinion. Remember to note inferences—why does a particular result follow from this set of facts?

**Dissent (if applicable):** Most of what you will be reading are majority opinions: the opinion of more than half the judges which establishes the ultimate decision of the court. In some cases, there may also be a dissenting opinion. This is not always the case, but it is common in United States Supreme Court cases that you will read in classes like constitutional law. A dissenting opinion is the opinion of one or more judges who disagree with the majority opinion. If there is a dissent, you do want to make note of it and think about why the judge dissented. Why didn't they agree with their fellow judges? You may

also encounter a concurring opinion, which is the opinion of one or more judges who agree with the majority's decision but reach that conclusion based on different reasoning.

## f. General Tips on Briefing

- This is called a “brief” for a reason. Try to keep your brief to one page, maybe a page and a half at the most.
- If applicable to the subject and class, you may need to include other things such as concurrence or dissent.
- Above all else, this is a tool to **help** you. Make it your own and include sections that help **you**. For example, it might help you to add a “Why” section to your brief to remember what this case added to your understanding of the topic.

## g. After You Brief

- Think about your “takeaway.” Think about all of the cases you’ve read, and summarize them in some way (charts, outlines, etc.).
- What rules were covered? How do they relate to each other?
- Are there exceptions to the rules?
- How do the cases illustrate the rules?
- What type of facts raise these issues? Can you create your own generalizations?
- What policy issues were raised? Were there any policies that should have been raised? What are your thoughts on these policies?
- Think about what questions you may have—what questions do you have about the case that you want to ask the professor?
- What do you hope is answered or clarified in class?
- How does this case fit in with the rest of your reading?
- Most importantly, make sure you find answers to these questions. If not answered in class, meet with your professor or academic tutor as soon as possible to clear up your understanding. The law generally builds upon itself, so you want to clear up any questions quickly so you don’t fall behind.

## h. Practice Briefing

We are now going to attempt to brief two cases together. First, we have a sort of fun and silly case, and then next, a slightly more typical case. Also, if you are feeling overwhelmed, it's okay to take breaks.

Here is the fun one—read the excerpt and then answer the questions that follow.

***United States ex rel. Gerald Mayo v. Satan and His Staff*, 54 F.R.D. 282 (W.D.Pa. 1971)**

Counsel: Gerald Mayo, pro se

WEBER, District Judge.

Plaintiff, alleging jurisdiction under 18 U.S.C. § 241, 28 U.S.C. § 1343, and 42 U.S.C. § 1983 prays for leave to file a complaint for violation of his civil rights in forma pauperis. He alleges that Satan has on numerous occasions caused plaintiff misery and unwarranted threats, against the will of plaintiff, that Satan has placed deliberate obstacles in his path and has caused plaintiff's downfall.

Plaintiff alleges that by reason of these acts Satan has deprived him of his constitutional rights.

We feel that the application to file and proceed in forma pauperis must be denied. Even if plaintiff's complaint reveals a prima facie recital of the infringement of the civil rights of a citizen of the United States, the Court has serious doubts that the complaint reveals a cause of action upon which relief can be granted by the court. We question whether plaintiff may obtain personal jurisdiction over the defendant in this judicial district. The complaint contains no allegation of residence in this district. While the official reports disclose no case where this defendant has appeared as defendant there is an unofficial account of a trial in New Hampshire where this defendant filed an action of mortgage foreclosure as plaintiff. The defendant in that action was represented by the preeminent advocate of that day, and raised the defense that the plaintiff was a foreign prince with no standing to sue in an American Court. This defense was overcome by overwhelming evidence to the contrary. Whether or not this would raise an estoppel in the present case we are unable to determine at this time.

If such action were to be allowed we would also face the question of whether it may be maintained as a class action. It appears to meet the requirements of Fed.R. of Civ.P. 23 that the

class is so numerous that joinder of all members is impracticable, there are questions of law and fact common to the class, and the claims of the representative party is typical of the claims of the class. We cannot now determine if the representative party will fairly protect the interests of the class.

We note that the plaintiff has failed to include with his complaint the required form of instructions for the United States Marshal for directions as to service of process.

For the foregoing reasons we must exercise our discretion to refuse the prayer of plaintiff to proceed in forma pauperis.

It is ordered that the complaint be given a miscellaneous docket number and leave to proceed in forma pauperis be denied.

Interactive Question: Case Heading – *United States ex rel. Gerald Mayo v. Satan and His Staff*



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=36#h5p-14>

Okay, now let's take the first paragraph:

Plaintiff, alleging jurisdiction under 18 U.S.C. § 241, 28 U.S.C. § 1343, and 42 U.S.C. § 1983 prays for leave to file a complaint for violation of his civil rights in forma pauperis. He alleges that Satan has on numerous occasions caused plaintiff misery and unwarranted threats, against the will of plaintiff, that Satan has placed deliberate obstacles in his path and has caused plaintiff's downfall.

So, despite this being what I consider a “fun” case, it starts with many numbers! What do they mean? Well, anything with “U.S.C.” in the middle stands for US Code. In time, you will start to recognize these things, but until you do, Google CAN be your friend. So, go ahead and Google what plaintiff is alleging. Also note that if you aren't sure where to look, or if a law dictionary is not providing satisfactory answers, see a law librarian. They can often help point you in the right direction.

It turns out Plaintiff is alleging “conspiracy against rights,” which is § 241, something about civil rights, which is § 1343, and again, something about civil rights, which is § 1983. I say “something about civil rights” because you don't have to understand the entire statute—that's not the point. The point is that when you see a statute mentioned in a case that you've been assigned, look it up right away so you have some context as you read the case.

The paragraph also mentions “in forma pauperis” which, if I look it up in my Black's Law Dictionary, is Latin for “in the form of a pauper” which allows someone to bring suit without the cost of a lawsuit.

We then find out that plaintiff is bringing a lawsuit because he thinks Satan is interfering with his life by placing obstacles in his way.

So far my brief might look like this:

**UNITED STATES ex rel. Gerald MAYO v. SATAN AND HIS STAFF, 54 F.R.D. 282 (1971)**

**Fact Statement:** Plaintiff is alleging that the devil is interfering with his constitutional rights. He alleges that Satan is causing him misery and placing obstacles in his life.

Procedural Statement:

Issue Statement:

Rule:

Holding:

Analysis:

Let's take the next paragraph:

Plaintiff alleges that by reason of these acts Satan has deprived him of his constitutional rights.

We feel that the application to file and proceed in forma pauperis must be denied. Even if plaintiff's complaint reveals a prima facie recital of the infringement of the civil rights of a citizen of the United States, the Court has serious doubts that the complaint reveals a cause of action upon which relief can be granted by the court. We question whether plaintiff may obtain personal jurisdiction over the defendant in this judicial district. The complaint contains no allegation of residence in this district. While the official reports disclose no case where this defendant has appeared as defendant there is an unofficial account of a trial in New Hampshire where this defendant filed an action of mortgage foreclosure as plaintiff. The defendant in that action was represented by the preeminent advocate of that day, and raised the defense that the plaintiff was a foreign prince with no standing to sue in an American Court. This defense was overcome by overwhelming evidence to the contrary. Whether or not this would raise an estoppel in the present case we are unable to determine at this time.

So, the judge sort of restates that plaintiff is alleging that Satan is depriving him of his constitutional rights. We also find out that the court has serious doubts that there is a cause of action. What does this mean? Well, it means that the plaintiff isn't bringing a claim that the court recognizes, meaning, it's likely too general. "The devil is causing me misery" isn't something the court typically recognizes as a proper lawsuit. At this point, I might update my brief to reflect this:

**UNITED STATES ex rel. Gerald MAYO v. SATAN AND HIS STAFF, 54 F.R.D. 282 (1971)**

**Fact Statement:** Plaintiff is alleging that the devil is interfering with his constitutional rights. He alleges that Satan is causing him misery and placing obstacles in his life.

Procedural Statement:

Issue Statement: Is there a cause of action that the court recognizes?

Rule:

I'm going to stop there for now, as the judge then goes on to talk about why he doesn't think the court has jurisdiction over the devil. He references some fun folklore and songs about the devil, and ultimately decides that the court can't exercise jurisdiction over the devil. This will make more sense once you take civil procedure.

I want to go back to the case you read earlier: *Garratt v. Dailey*, 279 P.2d 1091 (Wash. 1955). Let's try to brief that one. Start with a template—any format you like so long as it contains the necessary components. I might use the below template, but you can make it your own.

Heading:	
Fact Statement	
Procedural Statement	
Issue Statement	
Rule Statement	
Holding/ Judgement	
Analysis	
Fact Statement	



Try your hand at briefing Garratt on your own. You can use your own template or use the space provided below.

### Writing Exercise: Case Briefing



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=36#h5p-15>

Now compare your brief with mine below.

### Model Case Brief – *Garratt v. Dailey*



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=36#h5p-16>

A few notes on my brief: You might notice that I did some copying and pasting from the case—which is fine! Just make sure you have a way to note that, like I did by using quotation marks in my brief so you know where it came from. I’ve also put some of it into my own words, so I could determine how well I understood the case. Finally, I had some “questions for class” at the end, things that maybe I didn’t understand right away.

If you were a bit lost on any of the cases we’ve read, that’s normal! It does get better with practice and it gets easier the more you know. This will start to feel more natural to you, I

promise. If you feel frustrated, just remind yourself that everyone is feeling the same way, and all you need is a bit more practice.

In the next chapter, we will talk about what to do DURING class. And remember, I can't stress this enough—ask questions!

“During my first week of law school I was terrified to ask questions. Having not known a single person in the law, I felt underprepared and, quite honestly, dumb. That weekend, as I stared at my casebooks, I decided that I was not going to let the fear of ‘sounding dumb’ keep me from being a great lawyer some day. Going forward I asked for clarification on the most minute of details, even if the professor made comments like ‘You all probably understand this.’ If I did not understand something I asked professors to explain, I visited them in office hours, and emailed them. This made my law school experience fruitful, engaging, and fun. We, as first-generation lawyers, cannot let the fear and shame of being systematically excluded from the legal profession keep us from becoming great lawyers.”

-Adrian Gonzalez Cerrillo, Class of 2021

This probably feels like a ton of information coming your way and might feel overwhelming. Have no fear! There are multiple CALI Lessons on briefing cases. Here is a general one called [Case Briefing](#).

The CALI Lesson [Finding the Rule](#) isn't specific to briefing, but it helps you find the rule.

The CALI Lesson [Excavating Facts from Cases](#) discusses separating relevant facts from irrelevant facts in cases.

And finally, here is a CALI Lesson on preparing for class: [Preparing for Class 101: Preparing for Your First Day of Class](#).

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<sup>1</sup> Standard 310 (b). In *2021-2022 Standards and Rules of Procedure for Approval of Law Schools*. American Bar Association Section of Legal Education and Admissions to the Bar. [https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/standards/2021-2022/2021-2022-aba-standards-and-rules-of-procedure.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2021-2022/2021-2022-aba-standards-and-rules-of-procedure.pdf).

<sup>2</sup> “Basics of Legal Research: Primary Sources.” LibGuides. Law Library of Louisiana. Accessed May 17, 2022. <https://lasc.libguides.com/c.php?g=436789&p=2980672#:~:text=What%20Are%20Primary%20Sources%3F,the%20three%20branches%20of%20government>.

<sup>3</sup>[“How Courts Work.” Americanbar.org. American Bar Association Division for Public Education, November 28, 2021. https://www.americanbar.org/groups/public\\_education/resources/law\\_related\\_education\\_network/how\\_courts\\_work/appeals/.](https://www.americanbar.org/groups/public_education/resources/law_related_education_network/how_courts_work/appeals/)

<sup>4</sup>[“Stare Decisis Doctrine: Definition & Example Cases.” Study.com. Working Scholars. Accessed June 7, 2022. https://study.com/academy/lesson/stare-decisis-doctrine-definition-example-cases.html#:~:text=The%20doctrine%20of%20stare%20decisis,judges%20deciding%20similar%20issues%20later.](https://study.com/academy/lesson/stare-decisis-doctrine-definition-example-cases.html#:~:text=The%20doctrine%20of%20stare%20decisis,judges%20deciding%20similar%20issues%20later.)

## 4. During and After Class

Now that you've prepared for class, let's discuss what happens during class. If you are reading this before you've started law school, some of this may seem a bit daunting. That's alright, it's merely meant to give you a preview. You can always come back and use this as a reference as you go through your semester.

Also, note that law school exams might be very different from what you've experienced in the past. I mention this, and go into greater detail in the next chapter, because you want to know how you will be tested as you take notes and process information. Law school exams are hypothetical situations or stories. Meaning, that you won't be asked to merely recite the law or recite facts from cases. Instead, you'll be asked to apply the law you learn to new situations. With that in mind, let's dive into class!

### I. Cold Calling and the Socratic Method

During law school, many professors will use "The Socratic Method." Developed by the Greek philosopher, Socrates, the Socratic Method is a dialogue or discussion between professor and students. This means that the professor will ask questions in an effort to explore the subject matter. The reason behind this is so that students are active participants in the discussion, not merely passive observers. The class becomes a dialogue, not a lecture, and the questions are supposed to be thought-provoking. More importantly, this will help you prepare for exams since the Socratic Method allows the professor to explore the subject matter in a new way, using hypothetical situations similar to exams.

All of this is meant to foster active and critical thinking among students. However, it can often prove intimidating, because of "cold calling." This means that the professor doesn't wait for a volunteer, but rather, picks someone randomly in class to answer the question. It's been my experience that this causes a great deal of anxiety for law students, and I completely understand why. It can be incredibly stressful to be called on and put on the spot even if you do know the answer—but even more so if you don't know the answer.

While I can't take away the anxiety, or make it less stressful in the moment, I can tell you that no one will mind if you get the answer wrong. Everyone who has been to law school remembers when they were called on for the first time, or the time they were called on to answer a question and had no clue what was happening, or spectacularly messed something up. Every single lawyer has had that experience. However, none of us (or very few of us)

remember when our classmate got something wrong. Typically, your classmates are so focused on what they are learning, and honestly, probably being confused as well, that they don't notice your mistake.

Also, remember that class discussions in general don't count towards your grade. They may count towards class participation, but that doesn't mean you lose points if you get an answer wrong. So, don't hesitate to dive in and participate—it will actually help you learn. Also, as a tip, if you volunteer you are less likely to be “cold-called,” so it's a win for you and for the class!

Finally, don't be afraid of talking too much in class. If you have a question, it is more likely than not that someone else in the class has that same question. The professor will make sure that other students have an opportunity to participate in class. Student questions are an integral part of class time, so don't be afraid to speak up.

## II. Taking Notes

Obviously, you want to take notes in class. However, you don't want to just take dictation, you also want to actively listen and participate in class. By that, I mean that you shouldn't just write down everything the professor says, or everything that happens in class. You want to be a bit more selective.

### a. Handwritten vs. Typed

One big debate about note-taking is whether you should type your notes or handwrite them. Both have pros and cons. There is science that says that you retain more information by handwriting things,<sup>1</sup> but that is largely dependent on the situation, and the person. The key thing is to do what works for you! However, I'll give you some pros and cons of both.

#### **Handwritten notes**

Pros:

- Potential to process and remember the information better<sup>2</sup>
- Less likely to take “dictation” and instead only write about the things that are important (this also helps with processing)

Cons:

- More difficult to organize
- Sometimes harder to keep up
- Can be less neat when you go to reread

### **Typed Notes**

Pros:

- Typically neater
- You can organize as you go
- Can typically type faster
- Can plan ahead a bit better (see below)

Cons:

- It's tempting to take “dictation” when typing
- Might not be fully processing information
- Might be so focused on typing that you aren't fully participating in class

Note that some professors ban laptops and audio recorders in class. If you need an accommodation to use a laptop—perhaps you have difficulty writing by hand—please be sure to ask for an accommodation. Sometimes this process is formal, but sometimes you can just ask your professor.

## **b. Preparing Ahead**

To help you avoid just taking dictation, there are things you can do to prepare ahead of time, ensuring that you have less to write during class. This will help you pay attention and be an active participant in class.

First, merely briefing your cases is a good way to prepare your notes ahead of time. If you plan to type, you can also put case headings and facts in your notes ahead of time to save you from having to type them during the discussion. Also, just as you would do with case briefing, you can use your book table of contents to see how things fit together or to help you choose headings. In addition, you can put any statutes or other information in your notes before class.

Some professors may provide their PowerPoints before or during class. You can use these to assist in organizing your notes, or even take notes on the PowerPoints themselves. Also, if you know the professor will make the PowerPoints available, even if it's after class, you know that you don't have to copy what is on the PowerPoint to your notes since you can add those later. This will help you avoid taking dictation and allow you to participate in class.

### c. What to Take Notes On

I keep saying don't just take dictation, but really pay attention and actively listen. What do I mean by that? Well, you go to class to gain the information you might not get merely from the reading. Some great things to look out for are:

- Things your professor spends more time on.
- Hypos, or hypothetical examples, that your professor spends time on. Is your professor changing facts in a case? Or asking a lot of "what if this happened instead" questions? Jot that down! And pay attention to the answers. This will help you prepare for your exams since your professor is the one that writes your exams, and the exam question will likely be similar to the in-class hypos.

For more, see the CALI Lesson [Note-Taking in Law School 101: The Basics](#).

And for a slightly more advanced lesson on note-taking: [Note-Taking in Law School 101: Case-Based Content](#).

## III. Right After Class

Even after class ends, you still aren't quite done with class. You might feel exhausted and just want to turn your brain off for a minute, but before you do, take 5 to 10 minutes to look over your notes. Were all of your questions from the reading and briefing phase answered? If not, jot them down—or highlight them—and see if you can chat with a professor or teaching assistant right away. If another class is coming in, or your professor doesn't stick around, that's okay—make a note of the specific questions you still have and visit during office hours or make an appointment to chat with your professor.

Now is also the perfect time to do a quick review of your notes and fill in any gaps or clarify things. If you wait too long, you may have forgotten important pieces of information. Doing

this for 5 to 10 minutes after each class will save you time in the long run, and help make sure you really understand what happened in class.

## IV. Creating Your Outline

In the next chapter, I'll discuss how you can prepare for your exams. But preparing for exams doesn't just happen in the days or weeks leading up to the final exam. You can and should start that preparation within the first month of law school. One key way to do this is through the outlining process. The process of building an outline ensures that you stay caught up and continue to understand the material as well as serves as the ultimate study aid at exam time.

### a. What is Outlining, or Synthesizing?

You will often hear law students talk about “outlining,” so let's break down what that means and when you should do it.

First, I'd prefer that everyone switch from calling it outlining, and just call it synthesizing information, as that is what you are doing. In this guide, I use the two terms interchangeably. The point of outlining is to take the information from each class and put it together. It's the process where you are basically seeing how it all works together. I hate the term “outlining” because most people think of the typical outline with Roman numerals. So, the first thing you should know is that outlining can take any form: from a typical Roman numeral outline, charts, flowcharts, or a mind map<sup>3</sup>, to, well, anything you want!

So, how should one synthesize? First, you need to know why you are doing it. To do this, we need to skip ahead a bit and talk about final exams. As mentioned above, for your final exam your professor will likely give you a hypothetical to answer—a story, or problem, to solve. We will discuss this in greater detail in the next chapter. But it's essentially a story, where things go wrong, and the professor wants you to identify and solve the legal problems.

This means that the exam won't ask you to just restate facts from cases; you have to use the cases you read and compare and contrast them to the new situation. To do that, it helps to “outline” and put it all together.

Each case you read should give you a little more insight into the rule, or law, and how to use it. Think of it as collecting puzzle pieces.



For more information, see the CALI Lesson [Outlining Basics](#).

## b. Practice Synthesizing

Outlining or synthesizing can feel strange. You are essentially piecing together available information in order to ascertain the rule. This information will primarily come from cases that you read. Throughout this process, you are also helping yourself to explain or understand the rules you've been learning. So, let's dive into some synthesizing!

First, bear with me as I'm going to use a music example because I'm a huge music nerd. Imagine that you are interested in predicting who might be inducted into the next Rock and Roll Hall of Fame class.

You notice the following inductees:<sup>4</sup>

2021	2020	2019	2018
Foo Fighters	Depeche Mode	The Cure	Bon Jovi
Tina Turner	The Doobie Brothers	Def Leppard	The Cars
Carole King	Whitney Houston	Janet Jackson	Dire Straits
The Go-Go's	Nine Inch Nails	Stevie Nicks	The Moody Blues
Jay-Z	The Notorious B.I.G.	Radiohead	Nina Simone
LL Cool J	T. Rex	Roxy Music	Sister Rosetta Tharpe

You look at the various lists and try to decide what they have in common and whether you can predict the criteria for being inducted into the Hall of Fame. Maybe you are familiar with the musicians, maybe you aren't. You do some research on the various musicians; you listen to their music, look at their biographies on the Hall of Fame's website to get a feel for what they deem important, and so forth. This would be similar to reading cases.

A look at the Hall of Fame's website gives us some insight, stating:

Leaders in the music industry joined together in 1983 to establish the Rock and Roll Hall of Fame Foundation. One of the Foundation's many functions is to recognize the contributions of those who have had a significant impact on the evolution, development and perpetuation of rock and roll by inducting them into the Hall of Fame. Artists become eligible for induction 25 years after the release of their first

record. Criteria include the influence and significance of the artists' contributions to the development and perpetuation of rock and roll.<sup>5</sup>

This is like a statute, which you might use in classes like civil procedure or criminal law. It's a great starting point. From this description, how would you state the "rule" for getting inducted into the Rock and Roll Hall of Fame?

#### Interactive Question: Rule Synthesis



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=40#h5p-17>

Now, this is where my example falls apart just a little, for three reasons: First, music is subjective, and there is always controversy over who is and isn't included. Second, the Hall of Fame doesn't release the rationale for inclusion, unlike a judge. Third, I don't expect you to go read up on all the artists I just mentioned.

However, say you were like me and you were a bit indignant that Rage Against the Machine was not yet inducted, and you wanted to make a case for why they SHOULD be inducted. You'd compare the other artists listed above (or from prior years on the website) to Rage Against the Machine. Again, this is harder with music since it's subjective, but the law can be frustratingly subjective as well. Essentially, what I just described above is lawyering. Except instead of arguing whether your favorite band should be included, you are arguing whether something is a battery, or whether a claim was filed appropriately—a bit less exciting if you ask me, but also more important in the long run.

Let's try a slightly different example. What if your client is a homeowner in an area with a set of neighborhood rules? Your client wants to build a firepit, and house that firepit close to their deck. Essentially, the client has a large deck and would like to build the firepit within the deck. Like this:



The applicable rule states: “Any propane, natural gas, wood flame, or gel open flame device must be at least 10 feet away from any structure.”

Your client plans to build the pit 10 feet away from the house, as their deck is quite large, but the question is: Is the fence and bench a structure? Is the deck a structure? How do you advise them?

Step one is to look at the dictionary definition of structure, or whether the neighborhood rules have defined structure. In this example, let’s assume that the neighborhood rules have not defined “structure.” So, our first step is the dictionary:

**Definition of structure**

noun

1. mode of building, construction, or organization; arrangement of parts, elements, or constituents: *a pyramidal structure.*
2. something built or constructed, as a building, bridge, or dam.
3. a complex system considered from the point of view of the whole rather than of any single part: *the*

structure of modern science.

4. anything composed of parts arranged together in some way; an organization.

5. the relationship or organization of the component parts of a work of art or literature: *the structure of a poem.*<sup>6</sup>

The dictionary definition isn't overly useful. It's likely too broad. We need more assistance. What is the reasoning behind the neighborhood rule? What do other people in the neighborhood have? Let's say you do your research, and you find this:

"The neighborhood has enacted this rule to prevent the spread of fires. They are concerned that grills, or other flame devices, will pose a fire hazard if too close to a house or garage."

So, the reasoning is a fire hazard, and the rationale even states "house or garage" instead of structure. Is the deck part of the house? Again, you'd want to look at what the neighborhood has allowed in the past. What they've allowed in the past is similar to reading cases.

Hopefully, you are getting the idea. Take some time to go through the CALI Lesson [Introduction to Rule Synthesis](#). In it, the author has you compare and contrast sandwiches, so maybe eat lunch as you work through the lesson!

### c. When Do You Start Outlining?

Well, the sooner the better. It's difficult to start outlining in the first week or two, as you don't have enough information to synthesize. However, by week three or four, I'd start outlining a little bit each week.

You want to do this for two reasons: First and foremost, it will save you time in the long run and leave you more time to do other things that will help you prepare for final exams. But more importantly, similar to reviewing notes after class, it will alert you to whether you are truly understanding information earlier rather than later.

If you are unable to figure out how to synthesize a section, meaning, you just can't see how it all fits together, this is a great time to consult your study group (discussed below), a teaching assistant, or your professor. Leaving it to the last possible opportunity, at the end of the semester, means it's going to be more difficult to put it all together and far more difficult to understand the pieces you are struggling with.

## d. Other Outlining Notes

Finally, I want to address some other “tips” that might help you get started in your rule synthesis.

### **Use your syllabus or TOC!**

If you are a bit unsure of where to start, or how to start organizing things, look to your syllabus or table of contents. It’s a great way to start to “see” the big picture. For example, let’s look at another casebook’s table of contents, from *The Story of Contract Law: Formation* by Val Ricks, published by CALI eLangdell® Press.

<b>INTRODUCTION.....</b>	<b>XIV</b>
SOURCES OF CONTRACT LAW .....	XIV
HOW THIS BOOK IS ORGANIZED.....	XV
CONTRACT LAW THEORIES.....	XVII
BYRNES v. MANN’S ESTATE .....	xx
<b>CHAPTER 1. CONSIDERATION: CONTRACT &amp; BARGAIN.....</b>	<b>1</b>
A. INTRODUCTION .....	1
1. <i>Medieval Law of Promise Enforcement</i> .....	2
2. <i>Changes in the Renaissance</i> .....	4
B. THE GENERAL TEST .....	6
Joseph VIAN v. Mariah CAREY .....	6
PROBLEM 1. ....	9
PROBLEM 2. ....	9
C. CONSIDERATION THEORY AND POLICY.....	9
Christopher St. German, DOCTOR AND STUDENT.....	9
SHARINGTON v. STROTTON .....	10
D. MORE ON BARGAIN OR EXCHANGE .....	12
HUNT v. BATE.....	12
Hildegard Lee BORELLI v. Grace G. BRUSSEAU .....	13
PROBLEM 3 .....	24
Restatement (Second) of Contracts § 71(1)-(2) & cmt. b.....	24

In this example, you can see a few things. First, similar to how you might use a TOC in your reading, you know that *Hunt v. Bate* is going to go under the heading of “Bargain or Exchange.” You also know that Restatement 71 is going to go under “Bargain or Exchange” as well. So you at least have a start to your outline.

You can also zoom out, so to speak, and look at the entire table of contents. Advance through the pages below to start to see how these things might work together.



An interactive H5P element has been excluded from this version of the text. You can view it online here: <https://halefirstgenguide.lawbooks.cali.org/?p=40#h5p-18>

For example, you start with contract formation, and then look to “alternative theories” of recovery, and then look to limits on defenses, or bargains.

If you haven’t started classes yet, this is all going to seem very overwhelming. I suggest you just take it in as food for thought, and then come back after a few classes and read more carefully.

Personally, I used to use my professor’s syllabus as a starting point since that is the way your professor likes things organized. I would then start expanding with things that made sense to me, like charts and mind maps.

***Check in often with your outline to determine its effectiveness.***

I started most of my outlines with the typical Roman numeral format. And this works most of the time, and for most people. But if it doesn’t work for you, don’t hesitate to shift gears. You might feel like you’ve already “wasted time” spending a few weeks on one type of format, so you can’t possibly change now. First, that’s not wasted time, as you’ve been processing and reviewing material and that will pay off. But most importantly, if that particular format doesn’t work, you have to shift to something that works better for you.

You might also realize that different formats work for different classes. In my mind, contracts class lends itself to Roman numerals and feels very linear. However, with civil procedure, at least in my mind, I need charts and mind maps. Don’t limit yourself. The goal is to understand how to use the information you have in front of you, so don’t be afraid to experiment.

***Don’t just use other people’s outlines.***

I have two very unwavering beliefs: first, that sharing information is incredibly valuable, and second, that outlines are incredibly personal.

It’s okay to collaborate on outlines and share ideas with your study group and classmates. It’s also okay to look at what upperclassmen have done and what has worked for them. Doing this might help you figure out what outlines can look like.

However, note that the process of *creating* an outline is the useful part. You can’t just take an outline from a classmate and use that to study. The process of putting things together is what helps you prepare for exams. The whole point of outlining is to help you see the “big



picture” of what you are studying, and how things work together. That’s why the work of creating the outline is what is helpful, and just using a prepared outline from someone else is not.

## V. Study Groups

As you enter law school or talk to people about law school, many will have opinions on study groups. First, what is a study group? At a very basic level, study groups are small groups of students, about three to six, who do their studying together. Each study group, since they are made up of different people, is going to be set up a bit differently. The idea is that they help each other through reading and briefing the cases, and then compare and share notes after classes. First, we’ll look at some general dos and don’ts of study groups, and then we’ll do some exercises to help you decide whether you want to join one.

### a. The Dos and Don’ts of Study Groups

#### Do...

**Compare notes.** It’s perfectly acceptable to collaborate and compare notes. The legal profession itself is collaborative. You should still take your own notes, but it might be helpful to share what each of you thought about the class. Maybe someone in the study group picked up something that you did not, and vice versa—help each other fill in the gaps.

**Talk through hypotheticals.** Your professor might give you practice hypotheticals—see below. You can also find them in various supplements—again, see below. This is what study groups are made for! Talk through them together, and share your thoughts. You can also do this with smaller “hypos.” Often, your professor will ask “what if” during class, just changing a few facts or making up small stories. Write these down in class, and talk through them with your study group.

#### Don’t...

**Divide and conquer.** It doesn’t work. Some study groups like to split up the reading or note-taking and then share. For example, if there were four cases to be read for civil procedure, the study group might each read and brief one case and then share their brief with the other members of the group. DO NOT DO THIS. I’m all for sharing, but trust me when I say this will not help you. It might feel like a relief to divide the workload, especially in the beginning;

however, you get better at reading and briefing by practice. Not to mention, if you haven't read the case, the brief might not make sense to you which is going to hamper your ability to follow along and participate in class.

***Spend too much time socializing.*** Hopefully, you like the people in your study group, and if so, this is a great thing. You might make some terrific lifelong friends in law school, and I hope that you do! Because of this, it often happens that “study group” turns into “let’s just talk and socialize.”

Listen, I relate. I’m a super chatty person, and it takes discipline for me not to spend entire committee meetings trying to catch up with colleagues that I legitimately enjoy spending time with. However, that’s not the purpose of the study group (or my committee meeting). Set boundaries for yourself and the group. Something that works very well is setting goals, or timelines, where you can (and should) take breaks and talk, eat together, and generally socialize.

***Stay in a group that doesn’t work for you.*** Maybe you aren’t getting along with your group, or your study habits don’t match up. Maybe you are finding that talking through various things only serves to confuse you, not help. Don’t stick with a group or method that isn’t working. There is no harm in leaving the group, finding a new group, or just flat out deciding that you’d prefer to do this alone.

## b. Should I Join a Study Group?

Take a moment now to think about how you’ve studied in the past and what has worked for you. What has been your experience working in groups and working alone? The following tool helps you collect those thoughts and rate the benefits of each approach.



## Reflection Exercise: Studying in Groups Versus Alone



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=40#h5p-19>

Whether a study group is for you is completely a personal decision. There is nothing that says you must join a study group, and that is fine. However, the law is often collaborative and it can help to talk things out or work through hypotheticals as a group. So, my advice is, even if you don't have an official study group, find one to two fellow students that you can meet with a couple of times throughout the semester—specifically before midterms and finals—and talk through problems, questions, etc.

Remember, there is no “right” way to do things, so if you want to join a study group, find a group of people who have similar goals and needs to you. You can always join a study group and later decide it doesn't work for you, or join a study group late in the semester.

If you're considering joining a study group, or are already part of one, use the following exercise to work through (a) what you need from a study group; and (b) if you're already part of one, whether or not that study group is meeting your expectations.

## Reflection Exercise: Study Group Goals



An interactive H5P element has been excluded from this version of the text. You can view it online

here:

<https://alefirstgenguide.lawbooks.cali.org/?p=40#h5p-20>

For more information, see the CALI Lesson [Study Groups: Best Practices](#).

## VI. When to Ask For Help

Don't wait until just before the final exam to decide that you are a bit lost. The better option is to ask for help as soon as you are feeling lost. The problem is, how do you know if you are lost?

If your professor gives you quizzes or any practice hypotheticals, how are you feeling about them? If you get feedback from your professors, is it good? Even if it's only the first quiz, if you are scoring below the average in the class, go see your professor. Similarly, if you have a practice midterm, even if the feedback is good, go see your professor—what could you have done to do better?

What if you don't get feedback? You can still do practice hypos—how do you feel about them? Do they make sense to you? Is your answer matching the sample one, if there is one?

You can also do CALI Lessons, in almost any subject! How are you doing on those? If the answer is not great, that's okay, and normal! But it might be a signal to ask for help.

Asking for help is something you should do. I have so many students who either wait until it's too late or never come for help at all. Why? They're embarrassed. Or, they think they can figure it out on their own. Your professors, and your academic support professionals if your school has some, very much want to help you. You might also have tutors or teaching assistants that want to help you. We are all invested in your success, and I mean that sincerely. So, even if you aren't positive you need help, seek it out.

## VII. How Can a Professor Help Me? (And How to Approach a Professor For Help)

Your professors are going to be a great source of help, and most of them will want to help. Professors get excited when you succeed and typically teach because they enjoy it. So, how can a professor help you and when and how should you approach the professor?

First and foremost, professors are the best people to go to if you are struggling with the substance of the class. If you don't understand something from class or a case you read, go to the professor.

As for timing, sometimes you can approach a professor directly after class. However, if you do this, be aware that the professor might have to rush to go elsewhere, or another class might be coming in to use the room. Be respectful of both of these things. The after-class discussions are best used for very quick questions.

For much longer questions or times when you want to have a deeper discussion, office hours are best. All professors have office hours and will post the date and time on the syllabus. This generally means that if an office hour is on Wednesday from 2:00 to 3:00, you can stop by the professor's office at 2:15 without a prior appointment. This is encouraged! The only thing to be aware of is that other students might have the same idea, so you might have to wait.

For most professors, you can also email them and make an appointment. That way you know they will have time reserved just for you.

So, now that you have decided when to go see your professor, what types of questions might you ask?

**Questions about cases:** Perhaps there was something about one particular case you don't understand. You feel like you missed the holding, or are not clear on the issue they were trying to solve. Ask your professor!

**Questions about something mentioned in class:** Your professor is likely to mention "hypotheticals" in class, such as "What if Sally did x, and then Bob did y?" If you don't understand the answer, ask your professor. Similarly, your professor might take a case you are reading and say things like "What if we changed this one fact?" If you are feeling a bit confused about what it all means, ask your professor.

**Questions about how it all fits together:** This is valid. Chances are, your professor likes talking about the subject they are teaching and is happy to talk about the big picture or how various concepts might fit together. So ask them! I would suggest that you have thought about it

before asking them. For example, you can approach the professor and say “It seems like concept A relates to concept B this way...” and the professor will either agree, or correct you. Either way, you’ve started a great discussion.

**What NOT to ask:** Don’t approach the professor and just say “I don’t understand torts,” or “I don’t get any of intentional torts.” It might feel like these are valid questions, and trust me, I relate. However, your professor is spending an entire semester lecturing on torts, so you have to narrow it down just a bit.

Don’t ask things like “What do I need for the exam?” or “Will this be on the exam?” The professor’s goal is to teach you how to think like a lawyer and how to learn how to do that using torts, or civil procedure, or contracts. The exam is important, but that shouldn’t be your only focus.

Finally, professors are humans. I promise. We make mistakes; we understand that you make mistakes as well. We won’t judge you for coming in with a less than perfect question, nor will we think you asked the wrong thing. My guidelines are to help you get the most out of your time with your professor, but you should not be worried about asking the “wrong” thing during office hours. Take a chance, and go ask!

## VIII. A Note on Supplements

Supplements in the law school context are study aids that come from somewhere other than your professor or class materials. I have a love and hate relationship with supplements. They can serve a purpose, and often be helpful; however, even well-meaning students can often use them as a bit of a crutch, and it’s easy to get overwhelmed and think you need ALL of the supplements. Not only will this cost far too much, but you can’t possibly read them all—it will only get confusing.

There are too many products available and on the market to list or evaluate them all—from commercial products for sale to free sources online to memberships your school provides—so I’ll focus more generally on what to look for (and what to avoid) in a supplement.

### a. Choosing the Right Supplements

Good supplements are those that help you work on practice questions and think through the law. Bad supplements are those that do the work for you and only provide you with black

letter law or a “canned” brief or outline. Resist the urge to use these, as the work of writing a brief and outline is what is important, not to mention the fact that the canned brief or canned outline might not be suitable for your professor.

Some good supplements I recommend to students are CALI, Examples and Explanations, Glannon Guides, and anything that makes the student an active participant. The reason I recommend these is because they all contain questions and sample answers, which helps you with active learning.

## b. Some Dos and Don'ts of Supplements

Do find out what your professor recommends, or talk to students that have had that professor. Some professors have preferences, and might even use those supplement questions as parts of their exam. So, if a professor has a preference, definitely use it. Conversely, if your professor says they hate supplements or don't think they are necessary, you might want to avoid them for that class if you are able.

Do use them to practice and test your knowledge. The supplements I recommend all have different types of questions, from essays to short answers to multiple-choice questions. These are the best kind of supplements, as they literally “supplement” your in-class learning.

Do NOT rely on supplements in place of reading and briefing cases or outlining yourself. They should be supplementing your work, not taking the place of it. For example, if you rely on an outline someone else made, it might not fit your class or your learning style, and most importantly, making the outline yourself helps you process the information!

For more, see the CALI Lesson [Creating Study Aids](#).

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<sup>1</sup> University of Tokyo. Umejima K, Ibaraki T, Yamazaki T and Sakai KL (2021) Paper Notebooks vs. Mobile Devices: Brain Activation Differences During Memory Retrieval. *Front. Behav. Neurosci.* 15:634158. doi: 10.3389/fnbeh.2021.634158.

<sup>2</sup> Id.

<sup>3</sup> “A mind map is a diagram used to visually organize information in a hierarchy, showing relationships among pieces of the whole. It is often created around a single concept, drawn as an image in the center of a blank page, to which associated representations of ideas such as images, words and parts of words are added.” (“Mind Map.” Wikipedia.” Wikimedia Foundation, May 17, 2022. <https://en.wikipedia.org/wiki/>

Mind\_map#:~:text=A%20mind%20map%20is%20a,parts%20of%20words%20are%20added  
.)Some students like to do this with legal concepts, sort of free drawing and connecting the  
various concepts in class. This is a valid form of outlining.

4 This list is not meant to be exhaustive, and merely illustrates an example.

<sup>5</sup> Rock & Roll Hall of Fame. Accessed January 2, 2022. <https://www.rockhall.com/>.

<sup>6</sup> “Structure Definition & Meaning.” Dictionary.com. Dictionary.com. Accessed June 16, 2022. <https://www.dictionary.com/browse/structure>.

# 5. Preparing For and Taking Exams

As mentioned in the prior chapter, law school exams will likely be different from what you are used to, but that's okay, and that's why I'm going to tell you all about them. As mentioned, the exams won't ask you about facts of cases or exact rules of law. Yes, part of exam preparation is that you need to know the rules of law you have learned, but the exam doesn't stop there.

While different professors might test in slightly different ways, the most common way that first-year classes are tested is using one to three hypotheticals, or stories. Then, it is your job to apply the rules you've learned to that story, or "hypo."

Finally, while many schools are embracing midterm exams, many class grades are still based on one final exam at the end of the semester. This can be daunting, and it is why I stress practicing before that exam.

## I. Before the Exam

Below I'll go through what a typical exam looks like and how to write one. But first, let's look at ways you can prepare—and skills you can strengthen—in advance of exam day.

### a. Law School Exam Format – Practice Hypotheticals

So by now, you might be thinking, what on EARTH is a hypo? Well, it's short for "hypothetical," meaning a hypothetical story, or hypothetical legal pattern. In class, your professor might use these to illustrate examples or differences between areas of the law.

In addition, your midterm, and your final exam, are likely to be one to two hypotheticals. They are, essentially, practice legal problems. Your exam will set out a story or scenario, and you will be expected to identify, analyze, and "solve" (come to a conclusion about) the legal issues that arise in the story. While occasionally a hypothetical will provide the applicable law, such as a sample statute, hypotheticals are primarily fact-driven; in other words, it will be your responsibility to not only determine where there might be a legal issue involved but also to conjure up the applicable rule or law and apply it to the facts at hand in order to reach a conclusion about which way the case should be decided. For example, in a criminal law course, you might get a story about a series of interactions between three people and

your assignment will be to explain if any crimes have been committed among them. If you go back to the previous chapter to my examples on synthesizing, I asked you to think about if you had a client that wanted a firepit in their deck and told you the neighborhood had an applicable rule—that is a hypothetical. On your exams, the hypos will take on topics you are learning in class.

It should be noted that the BEST way to prepare for an exam is by doing practice hypos! This means practicing writing out the answers. You can get practice hypos from old exams (preferably from the same class and professor), class discussions, or your textbook—or you can create your own.

However, legal writing—and exam writing—is different from what you are used to. As discussed in the next section, legal writing and answers to exam hypotheticals should follow the IRAC structure, which is something you need to practice *before* the day of the exam.

## b. Using IRAC

You just learned that law school exams are typically a series of hypotheticals, and that to best prepare for the exam you should spend time practicing writing out your answers to practice hypotheticals.

Writing an answer to a law school exam is different from exams you may have written in the past. In order to successfully write a law school exam, it is necessary to have a specific paragraph structure or template. Professors refer to the structure used in writing exams—or the organization of the material—as IRAC, which stands for Issue, Rule, Analysis, and Conclusion.

Sometimes a professor might suggest CRAC, or CRE(explanation) AC, (these are common in legal writing) where one starts with a conclusion instead of an issue. However, that is usually reserved for legal writing, such as a memo, versus an exam, unless your professor specifically requests CRAC. Also, all of these formulas are essentially the same, so if one professor says “I prefer CRAC to IRAC” don’t let that throw you. Finally, I’ve had colleagues say they “don’t care about IRAC,” but then they show me how they want an answer to look, and you guessed it, it’s IRAC! This is going to feel VERY formulaic and repetitive, which is typically very different from writing you may have done for liberal arts courses. Instead, think of IRAC as a way to solve an equation or a lab report. I also sometimes think of it as a math problem—sort of like showing your work in long division.

Let’s walk through each section of IRAC:



## Sections of IRAC

**Issue:** Identify and explicitly state the precise legal issue you are about to discuss. Think of an issue like a topic sentence; you want to let the reader, usually a professor, know what area of law you are going to discuss. Think about what question (or questions) you need to answer in order to answer the hypothetical. Bear in mind there can be multiple questions, or issues, and if so, they each get their own IRAC. The issue will not be a broad topic such as “is there a crime?” Rather, the precise legal issue should be one narrow aspect of the broader legal rule you plan to analyze, such as “was Bob’s act voluntary?” Professors vary in the degree of specificity they want in students’ issue statements, so keep this in mind.

For example, if the exam question asks “What crimes have been committed?” your umbrella issue statement might be “Was Bob guilty of homicide?”, but there might be several sub-issues as well. See below for more information on this. (Also, note that any given exam hypothetical might have multiple issues; for example, you might spot three crimes—maybe homicide, theft, and something else—and they should EACH get their own IRAC.)

**Rule:** Next, accurately state the specific rule you plan to apply to the issue that you stated. Again, professors have a range of preferences, and you will be encouraged to ask them what those preferences are. Some professors want exact statements of rules, but most accept **accurate** paraphrases of rules. Sometimes, if applicable, you may need to explain the rule, which means expanding on the definition or further explaining an aspect of the rule.

**Analysis:** Immediately following your statement of the rule, apply the rule to the specific relevant facts presented in the legal problem you are analyzing. The analysis is often the most difficult (and most important!) part of essay writing; see below for a more detailed explanation of how to write an analysis.

**Conclusion:** After your analysis, state an explicit conclusion—your specific prediction as to how a court would decide the particular issue you discussed. Your conclusion should flow directly from your analysis. Thus, if your analysis identifies arguments for both parties, or a counterargument, your conclusion should explain why you believe one set of arguments is more persuasive. Remember that there is often not a “correct” conclusion.

## Common IRAC Errors

- **Labeling each component of your IRAC.** Some students literally write the IRAC components in their answers to lawyering problems. Like any mnemonic, IRAC should be used as a guide inside your head, not as a set of labels written in an answer to a lawyering problem.
- **Making your entire answer to a lawyering problem one gigantic IRAC.** For example, stating all the issues in one paragraph, stating all applicable rules in the next paragraph, etc. Each IRAC should address one precise issue, and only one precise issue. You should be sure to use a separate IRAC for each issue, or question, which needs resolving. For

example, if the question is whether the defendant should be charged with larceny or embezzlement—two different crimes—you would use one IRAC for each crime, and not combine them.

- **Making each IRAC or each component of your IRACs the same length.** There is no rule about how long each IRAC should be. You will need to develop the legal judgment and discretion to determine how much to write to answer a specific lawyering problem. Some IRACs are short and some are much longer. Substance should trump form. In other words, the length of your IRACs should reflect the complexity of the legal issue you're addressing in a given lawyering problem.
- **Giving equal weight, length, and time to each component of IRAC.** For example, some students assume each piece of IRAC should be one sentence long. This assumption is incorrect. You should make each component as long as needed to address the specific problem. The I and C will always be relatively short, with the R and the A likely being the longest. In fact, when answering lawyering problems on law school exams, the A will usually count for the majority of your grade. Therefore, usually, the analysis portion should be the most extensive portion of your IRAC.

## c. Mastering the Analysis

What does it mean to put forth an analysis? This is where you apply the unique facts of your hypothetical to the applicable rule. Please note that this is not a conclusion, nor is it merely restating facts. This is likely the most difficult part of writing a law school exam, and where you are likely to earn (or lose) the most points. Often when students come to me after a midterm or final exam and aren't happy with their grade, it's not that they misstated the rules, missed issues, or didn't know what they were doing—they just didn't analyze.

Your analysis is “showing your work,” or explaining how and why you reached a certain conclusion. I like to say your analysis answers the “why.” I tell my students to think of a small child, or me, asking them “but why, but why, but WHY?” You should answer that “why” with a “because” and think of the Wizard of Oz—“because, because, because...”

To this end, I like giving my students an analysis formula. If your background is in writing, or any kind of liberal arts degree, writing in a very formulaic way is going to feel odd and stiff. It might also feel repetitive. All of that is okay—embrace the formula and life will be so much easier.

## IRAC: Analysis Formula

As I mentioned above, think of the analysis like a math formula:

If a Rule = X, Y plus Z

Then your Analysis = When (FACT), this was X. Because of (FACT), Y occurred. In addition, because of (FACT FACT), Z was satisfied.

Or

When [ ], that was [ ].

Because of [ ], [ ] was met.

For example, the definition of battery is “An intentional harmful or offensive touching of another.” So, when applying this formula, you might say “When Bob punched Jim in the face, that was harmful” or “Because of the fact that Bob hit Jim on purpose, the element of intent was met.”

Essentially, you want to pair *each rule element* with a fact that supports or does not support that rule element. You are proving the equation, so to speak!

You might also need to “stack” your IRACs, or have sub-IRACs. Well, what does that mean? As mentioned above, your essay will have multiple issues or claims, and each issue or claim should have a separate IRAC paragraph. For example, a tort will have multiple elements, so you might want to use an IRAC for each element. See below.

Issue (In tort law, what is the tort?)

Rule (Elements 1, 2, 3)

Analysis

Sub issue 1 (Element 1)

Sub rule 1 (Explanation of Element 1)

Sub analysis 1 (Analysis of Element 1)

Sub issue 2

Sub rule 2

Sub analysis 2

Sub issue 3

Sub rule 3

Sub analysis 3

Conclusion

Here is a helpful CALI Lesson, on [IRAC](#).

Now, let's do a practice hypothetical:

Your client stole a motorized scooter and traveled from Illinois to Indiana. They are charged under U. S. Code, Title 18, § 408 (18 USCA § 408). That Act provides: “Sec. 2. That when used in this Act: (a) The term ‘motor vehicle’ shall include an automobile, automobile truck, automobile wagon, motor cycle, or any other self-propelled vehicle not designed for running on rails. \* \* \* Sec. 3. That whoever shall transport or cause to be transported in interstate or foreign commerce a motor vehicle, knowing the same to have been stolen, shall be punished by a fine of not more than \$5,000, or by imprisonment of not more than five years, or both.”

You know from reading a case called *McBoyle v. United States* that a plane is not a motor vehicle. In fact, the court reasons “But in everyday speech ‘vehicle’ calls up the picture of a thing moving on land.” The court in *McBoyle* also states that if the legislature had wanted to include planes in the definition, they certainly would have. The statute *McBoyle* cites is from 1919.

Given this information, you need to decide whether your client's motorized scooter is, in fact, a motor vehicle.

Now for the hard part: the analysis. Before you dive into trying to write it, think about how you are going to prove whether a motorized scooter is a motor vehicle, or isn't. Let's think about it this way:

Is a Motor Vehicle		Isn't a Motor Vehicle
Automobile Truck Wagon Motorcycle	Motorized Scooter	Plane
Self-propelled		Running on rails No motor/takes human strength to power

First, I separated out what we know from the language of the statute, as well as the case. We know what is specifically designated as a motor vehicle, and what isn't.

Next, the statute says a motor vehicle must be self-propelled, and not run on rails. So the second part of the table focuses on that. The question becomes, which side fits a motorized scooter better and why?

Try something like this:

Rule Element	Facts For	Facts Against	Resolution
Self-propelled			
Not running on rails			
Runs over land			

Try to fill in the chart, originally created by MaryAnn Hermann<sup>1</sup>—what are you noticing, if anything? You might have seen something like the below:

Rule Element	Facts For	Facts Against	Resolution
Self-propelled	Motor scooters have an engine and can move without “manpower”	Can also move with only manpower, meaning the rider can use their feet to get it to move	Which is the predominant use?
Not running on rails	No rails on a motor scooter		
Runs over land	Can’t fly		

Now you can think about your analysis. You want to use words like “here” and “because” in your analysis. For example, “Because a motor scooter does not run on rails, and in fact, runs on land, we can argue in favor of it being a motor vehicle.” Or, “Even though a motor scooter has an engine, meaning it is self-propelled, it can also be operated using manpower alone, making it less of a motor vehicle.” Note that there isn’t a right answer, and that can be frustrating. A motor scooter can be self-propelled OR propelled by the operator, making it hard to come to a “correct” conclusion. This is a common occurrence in legal hypotheticals, and it can be difficult to get used to. We are not as worried about the conclusion—here, whether this is a motor vehicle or not—but rather, we are concerned with the process or the arguments that helped you reach that conclusion. For example, maybe you don’t know much about scooters, which is perfectly acceptable, and you argue that motor scooters are completely self-propelled with an engine. There is nothing wrong with that, as long as you are explaining your reasoning.

The frustrating part about writing out hypotheticals is there isn’t always a “right” answer. The important part of the writing is how you support your conclusion. Even if an explanation seems obvious, it’s worth putting it down. I’ll leave you with one last example of the importance of supporting your conclusion.

I have taught contracts in the past, and one of the first rules of contracts I teach is whether the Uniform Commercial Code, a series of statutes, or the common law applies. The Uniform Commercial Code, or UCC, applies to “goods” which are defined as “moveable, tangible, items.” The common law of contracts applies to everything else. I gave my class a hypo about a homeowner contracting with a company to install a pool. In my mind, as I was writing the hypothetical, I had a vision of an inground pool—so installation would require digging and other activities. This means the students should be using common law.

However, I had a handful of students state very confidentially, and without explanation, that the UCC applied to this fact pattern. My first thought was, “Oh, I need to go back and explain the UCC again!”

I asked the class why some of them answered with UCC. I was told by a couple of students that a pool installation involved the company moving the pool off the back of the truck and putting it in the yard. Turns out, they had a vision of an aboveground pool, which very well might be a good since it is tangible and moveable!

So, the students were not wrong in their understanding of the law, but they failed to explain their reasoning. To both myself and the students, the idea of “pool” seemed obvious and without the need for an explanation. But it turns out we both had a vision of a different pool, so the explanation was needed. In conclusion, even if something seems silly and obvious to you, err on the side of explaining!

## IV. Exam Writing – The Day of the Exam

Now that you have hopefully prepared your notes, synthesized your rules, and done some practice hypos using the IRAC formula, it's time to look at the steps involved while actually taking the exam. Like many other parts of this book, if you are reading this in August, the section below might feel premature. Read it, or skim it, so you get an idea of what exams will look like, then feel free to come back to it halfway through your semester!

### a. Plan First

Before you dive into writing the actual exam answer, you need to plan! Given that on the day of the exam you will likely feel a little stressed and anxious, it's helpful to plan ahead for how you will plan. I know, so much planning, but that is also a lawyering skill.

First, look at timing and how much each question or exam part is worth. How do you plan to divide your time so that you address all the questions? Are there other instructions specific to the exam, or a section on applicable law? READ CAREFULLY. Sometimes you can ask your professor for directions ahead of time; sometimes you can't. Either way, start your exam by carefully reading the directions and creating a plan.

For more preparation, see the CALI Lesson [Attacking Exams](#).

Let me give you some examples of what I mean by planning and reading carefully. See the directions below, and then try to answer the questions that follow.

### **Sample Instructions 1**

#### **Contracts Final Examination**

**Directions:** This exam is for three hours and is closed book. Answer the multiple-choice questions on the Scantron answer sheet provided. Write or type your answers to the essay questions either in bluebooks or using the examination software. Remember to put your exam number on the answer sheet, this paper, and the essays. If something in a question seems missing or mistaken, please state a corrective assumption and proceed with your answer.

**Applicable law:** Unless otherwise indicated in a particular question, please assume that all events occur in a U.S. state following typical modern contract law and the UCC with no local amendments. The common law statute of frauds applies except to the sale of goods, which is governed by UCC Article 2. The majority (New York) version of the parol evidence rule applies. If there is an issue in an essay that raises two or more major conflicting views of the proper rule, you should indicate the different outcomes under each rule.

#### Interactive Questions: Reading Exam Instructions – Part 1



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=42#h5p-21>



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here:

<https://halefirstgenguide.lawbooks.cali.org/?p=42#h5p-23>

Let's look at another one:

### **Sample Instructions 2**

#### **Civil Procedure Final Examination**

DIRECTIONS — IT IS VERY IMPORTANT THAT YOU READ THESE DIRECTIONS CAREFULLY AND UNDERSTAND THEM FULLY!

These questions are “open book.” You may use any of the course materials (including materials posted on the course website), handouts, and notes you have taken in class in preparing your answers to the following questions. You also may use any hornbooks, treatises, or commercial outlines. The only limitation is that you work independently. Under no circumstances should you speak with, or look at the materials of, a fellow classmate.

Your student identification number, as well as the name of the course and the date of the exam, should be placed at the top of the first page of your submission. DO NOT PUT YOUR NAME, OR OTHERWISE SUGGEST TO ME WHO YOU ARE, ANYWHERE IN YOUR SUBMISSION. Any adjustment to your final grade for class participation will be made after I complete the grading of your examination answers.

If you wish to cite to a case, you may use any coherent short-citation form.

GOOD LUCK AND HAVE A GREAT BREAK!

Let's look at one final set of instructions, then answer the questions that follow.

### **Sample Instructions 3**

**Directions:** You will have 90 minutes to complete this exam. I have given suggested times for each section. You are allowed one (1) page, front and back, of notes. Please complete the multiple choice on the provided scantron, and complete the written portion on Exam4.

Please provide your name on both the scantron and Exam4.

Suggested Times: Essay 1, 30 minutes. Essay 2, 60 minutes.



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=42#h5p-24>

This might seem silly. I appreciate that you think I'm probably asking you obvious questions, that amount to basic reading comprehension. And they are! But the truth is that plenty of bright, literate, student exam takers skip right over key directions. In fact, Sample Instruction 3 comes from an exam a colleague of mine gave a few years ago. The colleague was frustrated that three students answered the multiple-choice questions on Exam4, not the scantron. This meant that their multiple-choice answers were not counted! I believe my colleague went in and hand graded, giving them partial credit, but not every professor will do that. So you want to be diligent in reading instructions and creating a plan.

## b. Read and Outline

Now that you are fully aware of the instructions, time constraints, and how you will balance your time, start on the first question. Take time to first read it as a story and get a feel for the facts. Then outline. This is different from the other outlining I've discussed. When you outline to study, you are synthesizing the law you've learned so you know how it all comes together. When outlining an exam answer, you are organizing your answer so you don't miss anything. I know, you don't have time to outline, but you can't NOT outline. Think about how you want to organize your essay. Are all issues created equally? What is your plan to address all issues?

A good way to outline is to organize your facts as we discussed above. For example, think back to that table:

Rule Element	Facts For	Facts Against	Resolution
Self-propelled	Motor scooters have an engine and can move without “manpower”	Can also move with only manpower, meaning the rider can use their feet to get it to move	Which is the predominant use?
Not running on rails	No rails on a motor scooter		
Runs over land	Can’t fly		

You might notice that there isn’t much to talk about with “runs over land.” I mean, a motorized scooter certainly doesn’t fly in the air, so this feels obvious. But “self-propelled” seems to have more to discuss! So that means you will likely want to spend more time on the issue of whether a motor scooter is self-propelled than whether it runs over land.

If there are multiple issues, you can also use this type of chart to determine which issue requires the most time.

Speaking of issues, outlining will help you issue spot. You will hear this as a buzzword all around: that you need to “spot the issues” or “issue spot.” But what does that mean? Remember that a hypothetical is essentially a story. So your job is to read the story and determine the “issues” or questions to solve. A professor may ask you a very directed question, such as “Did Defendant commit murder?”, in which case, your issue-spotting just got much easier! However, it is more than likely that the professor will end the hypothetical story with “What are the rights of the parties?” or “What crimes can Bob be charged with?”

This means that a large part of earning points on your exam is figuring out what issues, or legal problems, to solve. Everyone tackles this in a slightly different way. However, I suggest taking one of the two methods described below and making it your own.

### Issue Spotting Method 1: The Checklist

In doing the outlining that I mentioned above, you can create a mini-outline or “attack outline,” which is what I just call a checklist. Essentially, it should be a one-page list of the types of law you covered. For example, in a torts class, you are going to cover various types of torts. Therefore, your checklist might look something like this:

## 1. Intentional Torts

- a. Assault
- b. Battery
- c. False Imprisonment
- d. Trespass
- e. Trespass to Chattels
- f. Conversion

## 2. Negligence

Note that this is an incomplete checklist, and the complete version will look different depending on your professor and class. The idea is that if I have this memorized, I can quickly go through the fact pattern to see if any of the torts show up. Part of your checklist might also be to add in “activating facts.” What I mean by that is, if you are looking for an assault, or a battery, what are you looking for?

For example, for battery, I might know that I need a person in the fact pattern to touch another person, so I’m indicating that in my checklist. I can go through the story and think, “Alright, is anyone touching someone else? If so, could that be a battery?” Similarly, trespass requires land or entering the land of another. Is that showing up in the facts? Adding these types of “activating facts” to our checklist might look like this:

## 1. Intentional Torts

- a. Assault
- b. Battery – touching of another
- c. False Imprisonment
- d. Trespass – someone entering land
- e. Trespass to Chattels
- f. Conversion

## 2. Negligence

## Issue Spotting Method 2: The Factfinder

You can also do the reverse of the checklist: use every fact given to see if it triggers an issue. For example, pretend that this is part of an exam:

At the local bar, Bob saw Jim and thought, “Hey, Jim is looking at me funny.” So, Bob walks up to Jim, and punches him in the face.

You might not immediately know what tort is involved, but you can think “Hey, Bob punched Jim in the

face, that's gotta be something, right?" and you would indeed be correct! It IS something. Ideally, you would want to know that it is likely battery, but if that's not coming to mind right away, it can be important to set aside the fact and mention that it's likely a tort.

Similarly, why is the fact pattern telling you that Bob thought Jim was looking at him funny? Is that important? Could that be a factor in the analysis? It might be! Which brings us to our next step...

### c. Analyze!

At this point, you've read the instructions as well as read through the hypotheticals presented and started organizing your answer by outlining. Now it is time for the analysis—the most important part of your essay. As a reminder, this is where you explain how and why you reached a certain conclusion. This is the part where you think like a lawyer, so to speak. This is also, as you plan your time, where you want to spend the bulk of your time. Some professors also call this “applying the facts” or “applying the rule.” It all means the same thing.

It's also not uncommon for this to be what students struggle with the most. It's easy for me to say “apply the facts” over and over again, but it's trickier than it sounds.

Let's start by organizing and making sure we use all of the facts in a hypothetical. Those of us who teach law—we aren't creative. I mean, some of us are, and we probably like to think we'd all be fantastic novelists, but let's face it—we aren't. Since I've been teaching on Zoom, my husband will hear students laugh from time to time. I end up incredibly proud, telling him “See, they think I'm funny.” His response is always “You're only funny for a law professor.” Ouch. I'm telling you this because when we write exams we aren't building worlds or trying to create interesting characters or backstories. Most of us actually write exams backward; first, we think of the law we want to test, then create the facts that will support that. This means that every single fact in your hypothetical is important. When I meet with students that didn't do well on their exams, one of the main issues I see is that they aren't using enough facts.

To think about organizing facts, let's use two charts from a good friend and colleague, MaryAnn Hermann. These charts are also referenced above.

So, now that you've spotted the issue and identified the appropriate rule, let's break it down. Start with the rule's elements and think of each element as something you need to prove or disprove. Every rule you are given in law school will have parts; just note that some are easier

to find than others. After you’ve established the element, you want to “match” a fact with that element. Then, think about if there are multiple understandings, and if so, how you might resolve the multiple understandings.

Here is what I mean by multiple understandings. Let’s say the rule element is “unforeseeable event” and the fact that “matches” with that element is “snowstorm in late March.” Now, one understanding of that might be that it’s unforeseeable—no one expects snow in late March! However, I’m currently writing this from Michigan, where we absolutely expect snow in late March, and sometimes even April. So the multiple understandings of the fact might come from where you live or the weather you are used to. You can also look for other facts in the hypothetical to help you resolve the multiple understandings; does the hypothetical tell you anything about the climate or geography of the place?

Rule Element	Fact	Understanding A	Understanding B	Resolution

Another approach is thinking of “facts for” and “facts against” a rule element. I like to think of it as proving or disproving an element. If the element is “intent,” are there facts that prove intent, or are there facts that disprove it?

In some instances, you will only have facts for, or only have facts against. However, in some instances, you will have both, and again, you need to resolve this issue and come to a conclusion.

Rule Element	Facts For	Facts Against	Resolution

Now, turn those charts into an analysis using the format I gave you above. Remember, it's typically "Because FACT and FACT, rule element was met" or "When FACT, that satisfied RULE ELEMENT" or "RULE ELEMENT was met because of FACT and FACT." The key is that you are pairing the facts with your rule in a very clear way.

Now, all of this was merely an overview, and certainly a lot to take in. There are more opportunities for practice! Here are some related CALI Lessons:

- One on [Issue spotting](#);
- One on hypos in general – [Hyped About Hypos](#);
- One on [Legal Writing Versus Exam Writing](#) (as you will be taking a legal writing class that might differ slightly from what you need to write on an exam); and
- One on [Reading Comprehension Strategies for Exams](#).

All of these will help you get on the right track. The key to all of this is to be active, not passive. No exam will ask you to recite memorized facts or merely explain a rule. Therefore, preparing for exams has to involve practice, not merely "review."

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<sup>1</sup> Hermann, MaryAnn. "A Step-by-Step Method of Teaching Legal Reasoning." *Midwestern Academic Support and Bar Programs Conference*. Chicago, 2018.

## 6. Extracurricular Activities

In law school, similar to your undergraduate experience, you will have opportunities to engage in extracurricular activities. Law school extracurricular activities tend to be valuable for career planning and are often directly related to the practice of law.

### I. Why Get Involved?

It's a good idea to choose one or two activities that appeal to you, since they are all ideal ways to network, find mentors, and add interest to your resume. They also provide different types of foundational skills that you might need in your career. Essentially, extracurricular activities are a part of your professional identity development, and they can impact your developing professional reputation. I discuss specific activities below in greater depth, but for example, joining a publication will help you build research and writing skills while participating in mock trial will help you develop your litigation skills.

Finally, they are opportunities to get to know your peers, alumni, administration, and faculty outside of class, which can be beneficial for many reasons. Studies<sup>1</sup> have shown that students who are more actively engaged in the law school community tend to have overall better mental health and excel in classes. Because of this, I encourage you to find at least one law school activity that appeals to you!

With that in mind, be thoughtful in selecting activities because it's easy to get overwhelmed and try to do too much. That is not a great idea. Law school coursework will keep you busy, and you want to be cognizant of that. You don't want to overextend yourself. Moreover, these extracurricular activities are often viewed as professional commitments, so you want to make sure you can really commit the time needed for any given project. It is likely best to start slow when engaging with extracurriculars to make sure you can handle both the activities and your coursework. First-year students often underestimate the time commitment of law school and take on numerous extracurricular obligations, prioritizing them over academics. This can often have a negative impact on grades, which counteracts any potential gains from the extracurricular activities. Spreading yourself too thin, and joining too many organizations, can also make it difficult to demonstrate your commitment to one activity or group, and can also make it more difficult to pursue leadership opportunities in that organization.

You will have time during your first year to find out more about the different organizations



that are available at your school. Any organizations that you join during your first year will likely not be a huge time commitment; the organizations might have meetings or events you can attend, but will not likely expect a full commitment. You should also note that while your law school may list quite a few organizations, some schools boasting close to 100, not all organizations are equally as active. This is something else you can investigate during your first year. You will have more opportunities as a second-year student to join competition teams, journals, or run for executive board positions in different student organizations. These upper-level opportunities are great ways to show leadership and areas of interest to future employers, but also come with added responsibilities and are a larger time commitment.

## II. Student Bar Association

Your undergraduate school may have had a Student Government Association, or SGA. This organization was likely comprised of students elected by the student body to govern them and represent them to the administration.

Similarly, law school has a Student Bar Association, or SBA. The organization is made up of students elected by the law school to be the president, vice president, secretary, and treasurer, among other positions. There is also typically an election for class representatives, so that each class year (such as 1L, 2L, and so on) have representation as well.

The SBA typically governs other student organizations on campus, acts as a representative to the administration, advocates on behalf of student concerns, and plans events. The SBA will also have a connection to the American Bar Association (ABA)—a national association—through its [Law Student Division](#). Again, this provides many potential opportunities.

The ABA, as well as other, local bar associations such as those at the state and city levels, have opportunities for students to become members and often have discounted student rates. They can provide great local networking opportunities if students plan to stay in the area and want to meet local practicing lawyers. Some association entities, such as commissions and committees, also offer the opportunity for student representation. Involvement at this level offers law students a front-row seat to legal developments in a particular legal interest or area of law.

While I mentioned above that most organizations make you wait until your 2L year to get fully involved, your SBA will likely have one or two first-year representatives, meaning you have the opportunity to get involved in the SBA right away. In addition, the events that the

SBA plans, as well as their meetings, are open to all students. Even if you don't plan to run for SBA office, keeping track of what they are doing, or going to their meetings, is recommended.

### III. Affinity Groups

Most law schools also have affinity groups, such as the First Generation Law Student Group (FGLS), Black Law Student Association (BLSA), Latinx Law Student Association (LLSA), Asian-Pacific-Alaskan Law Students (APALSA), a Women's Law Caucus or Women's Law Group, Jewish Law Student Association, Christian Law Student Association, Muslim Law Student Association, OUTLaw (LGBTQIA+ students), Disability Law Students, Veterans groups, and so forth.

These groups typically plan events, bring in speakers, and provide networking opportunities for their members. Some might also have formal mentoring programs in place. Some of these groups are affiliated with national organizations and plan larger-scale events with groups from other schools. Some affinity groups also attend national conventions, which can be a great way to network. Law students have the opportunity to become members of—and seek leadership roles within—affinity groups at the national level, as well.

If you are interested in affinity groups, be on the lookout to see if these groups do anything before your law school orientation. For example, the First Generation Law Student Group at my school often reaches out to first-generation students prior to orientation, and they typically host an event for those students during orientation. Other affinity groups often do the same, which can be a great way of meeting classmates and upper-level students.

Unlike competition teams or publications, affinity groups will allow you to join just as a member during your 1L year, meaning the time commitment might not be as high. Many students continue their membership during their entire law school career and often serve in executive board positions (such as president, vice-president, etc.).

If there isn't an affinity group for you, start your own! My law school used to be for women only. When a few of us discovered this in our first year, we were ecstatic. We also found that, ironically, the Women's Law Caucus had been defunct since the 1970s. We decided to remedy this and brought the group back to life during our 2L year. In addition, the next student and student group featured below were my inspiration behind this book!

“I co-founded Loyola University Chicago School of Law’s student group dedicated to first-generation law students called First-Generation Law Student “FGLS.” We started this organization because we began law school feeling very anxious. Although I had taken a summer class to help prep me for law school, once our classes got going, there were so many things that I just didn’t know and I couldn’t shake feeling inadequate. There were questions my first-generation peers and I had about acronyms, terms, the job search, interviewing, and note-taking that seemed to be a given for some of our other peers. While we eventually found each other, all of us shared the feeling that we started law school behind, and we wished we had more support. FGLS was founded to ensure incoming students didn’t feel this way.

Pre-pandemic events were well attended. It was clear that students wanted and needed this support. Through this organization, we were able to foster community and a support system, mentor students with practicing attorneys, and organize events catered toward being first-generation in the legal field. FGLS started hosting events for incoming first-generation students, connecting with them throughout the summer prior to their first semester of law school.

Our goal was to ease the anxiety caused by imposter syndrome, and we achieved that goal with every meeting.”

-Brenda “B.” Alvarez, Esquire

## IV. Professional Interest Groups

At many schools, there are also student groups focused on specialty interest areas, such as entertainment law, environmental law, public interest law, immigration law, disability law, education law, health law, and other areas of practice. Similar to the affinity groups, they might host speakers or plan networking events. There may also be an overlap between the professional interest groups and affinity groups. You can generally join these groups as a member during your 1L year.

Schools also typically have honors organizations, such as Phi Delta Phi and Phi Alpha Delta. [Phi Delta Phi](#) is the oldest legal organization in the United States. [Phi Alpha Delta](#) is an international professional law fraternity and the largest legal organization in the United States. Both of these organizations are good networking opportunities. Organizations of this type will usually hold information sessions or meetings where you can learn more.

## V. Law Review and Law Journal

If research and writing is something you enjoy, a law review, or law journal, might be ideal.

A law review or law journal is a scholarly journal or publication. Almost every law school has at least one publication, and some have multiple. Generally, there is a flagship general journal, and many schools also have one or more subject-specific journals. The flagship journal may be called a law review or a law journal. The flagship publication tends to have a broad, or general focus, while the other publications tend to be a bit more specific. For example, there are journals that focus just on environmental law, business law, criminal justice, intellectual property, international law, and more!

Students run and edit these publications, while the articles are authored by law professors and scholars from around the country. In the legal profession, these are the publications that practicing lawyers, professors, and judges use for research. They are the scholarship of the profession.

The summer after your first year, you will have the opportunity to “write-on” to join a law review or law journal, with each school and publication having a different method of choosing the students that join. Some schools have grade requirements, while others have a writing competition—and some schools have a combination of both.

If you join, because you are responsible for editing articles, you will spend considerable time checking the sources of the submitted article, which will help you fine-tune your legal research skills. An additional responsibility will be writing your own article, or “note.” Each publication typically chooses one to two student articles to publish, but even if your article doesn’t get chosen for publication, it can be a very good learning experience and can serve as a professional writing sample. In your third year, you may be given an opportunity to join the editorial board.

Joining law review or journal is a great way to fine-tune your legal research and writing skills, as well as your editing skills. Because of this, it is often a great extracurricular activity if you want to potentially clerk for a judge or join academia. Keep in mind that joining a publication will be a significant time commitment and a considerable amount of work, but it is often worthwhile for both the experience and the impact on your resume. Most law schools will offer academic credits for being on law review or journal, which count towards graduation requirements, but this varies from school to school.



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=44#h5p-25>

## VI. Competitions: Mock Trial, Moot Court, Dispute Resolution

Law school also gives you the opportunity to try out for competition teams. Most schools offer different kinds of competition teams to hone different skills; among them are mock trial, moot court, and dispute resolution teams. Depending on the school you attend, there may also be client counseling, negotiation, arbitration, and other “lawyer” skills competition teams. The opportunity to try out for these teams typically arises the summer after your first year. The competitions allow you to practice your advocacy (i.e., lawyering). Schools may also offer credit towards graduation for being on competition teams.

**Moot Court:** Moot court focuses on appellate advocacy. Remember in the chapter about reading, we discussed how many of the cases you will read will be appellate opinions? This means that they were not written as a result of a trial, but rather, the decision at trial was appealed. That means that the losing party asked the appellate court, or the court above, to review the case. In an appellate case, there are no witnesses and no new evidence is presented—everything is based on the proceedings that occurred at the trial level. Instead, both parties prepare written documents called briefs and have a set amount of time to argue their position. A good example of an appellate court is the Supreme Court of the United States.

For moot court teams, students are presented with a problem that they will argue in front of a judicial panel, usually comprised of three judges. While the students present their arguments, the judges will usually pepper them with questions. Students have to defend their position while presenting case law in support of their argument. Students who compete in

moot court typically also have to write a brief in support of their argument for either the petitioner (the party asking for a lower court ruling to be changed, also referred to as the appellant) or for the respondent (the party asking for the ruling to remain, also referred to as the appellee). Being on a moot court team is an excellent opportunity to hone your legal research and writing skills, and is frequently seen as a prestigious accomplishment. In addition, arguing a case while having to think on your feet and answer questions is a great way to practice your advocacy skills. Finally, as many of the judges are local practicing attorneys and judges, this is another great way to work on networking.

**Mock Trial:** Mock trial is exactly what it sounds like: a pretend trial. Most will already be familiar with mock trial based on what you have seen on TV and in the movies—a lawyer presenting a case on behalf of a client and questioning witnesses in front of a judge and jury. Different schools have different systems for mock trial competitions, and some have extensive try-outs to select competitors. Some will have just a few, select teams; others will allow students to form multiple teams. Some schools will compete in regional, national, and even international competitions, while others will have internal competitions.

Typically, each competition “round” consists of four students total, with two students acting as attorneys or witnesses for each side. There also may be volunteer witnesses. Every team in the tournament is given the same “problem” or case to work on, sometimes months in advance, though it will depend on the competition. Being on a mock trial team is usually a big time commitment, with many hours of practice to prepare for competition.

These are great opportunities if you are interested in being a trial or litigation attorney, meaning you are interested in practicing the type of law that requires trials. Not only does this type of extracurricular activity help immensely with the skills you will need for trial work, but it will also be appealing to future employers and a great source of networking.

**Dispute Resolution Teams:** At some schools, you will also have the opportunity to take place in dispute resolution competitions. Dispute resolution is how we typically refer to things such as negotiations, mediation, or arbitration. It is essentially resolving a dispute without going to trial. However, they still involve a lawyer, and these competitions will judge your skills in that area.

If you were like me entering law school, you might be thinking “What on EARTH does mediation mean?” Mediation is when parties decide to hire a neutral party to facilitate a conversation and help resolve a dispute, rather than proceed with a trial. Arbitration is when the parties hire one to three neutral people to decide a matter, so it’s not a trial but is often binding like a trial. This means that mediation is a facilitated conversation, whereas arbitration leaves you with a final decision. Negotiation happens in various areas of law, whether it be negotiating a contract, or a settlement. These are skills that lawyers use every

day, no matter the area of law you choose to practice in. This also makes them valuable skills in both traditional and nontraditional legal jobs.

Some law schools offer credit for being on one of the competition teams, but not all do. There are dispute resolution teams all over the country who compete with each other in regional, national, and international competitions. In fact, some schools have teams specifically devoted to a specific area of law, such as sports law negotiation or international commercial arbitration.

#### Exploration Exercise: Competition Teams



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=44#h5p-26>

## VII. Teaching Assistants/Tutors

Most schools have opportunities for 2L and 3L students to be teaching assistants or tutors. Each school has a different method for choosing these students. If your school utilizes teaching assistants or tutors, you will notice that the tutors will show up in your first-year courses and they will frequently host review sessions to answer questions.

Tutors or teaching assistants typically work closely with your professor to help provide guidance and feedback to first-year students. These students are also fantastic mentors! In return, the teaching assistants or tutors typically receive payment or course credit for their work. Being a tutor or teaching assistant can also be included on your resume.

If this is a project you might be interested in, talk to the teaching assistants or tutors you meet during your first year. Ask them about their responsibilities and how they were selected.

## VIII. Research Assistants

Law school may also provide the opportunity to be a research assistant for a professor. At any given time, most of your professors will be working on their scholarship, which means they are doing research in order to write a law review article or work on a book. They will often want to hire research assistants to help them with these projects. This can be a great opportunity to work closely with a professor that you admire, especially if you are interested in their area of research. It may also be a paid position or a position for academic credit, which is a bonus!

Typically, professors seek out 2L and 3L students from the classes they teach. Some schools might have a formalized process for this where opportunities are posted, but others have a much less formal process. If this is something you are interested in, make it known to your professors.

## IX. Study Abroad

While not strictly an extracurricular activity, most law schools offer study abroad programs. These are typically offered during winter or summer break, and provide opportunities to take classes and earn credits in a unique or interesting setting. If you are interested in studying abroad, but your law school doesn't provide a program, check with your administration (or student handbook) to see whether you can participate in another school's program and transfer the credits.

This can be a costly endeavor, since it may involve international travel. Look into the various programs your school might offer and do not hesitate to talk to financial aid about whether loans can help to assist with the cost.

## X. Presentations, Panelists, Conferences, and Symposiums

You might notice that there are constant announcements for things happening at your law school, whether it be a guest speaker, symposium, panel, or another similar event. I would recommend that you make an effort to attend some of these, especially if they line up with your interests. Law students frequently come to law school with either a firm idea of what they want to do with their law degree (and that can change), or they have no idea what they



might want to do or what options are available to them. In general, extracurricular activities are a great way to explore various areas of law. Specifically, listening to guest speakers and attending events are a great way to explore what types of law and practice are out there, and what might interest you.

These events might be put on by professors or student organizations. For example, the school's law review might hold a symposium and invite the professors that published pieces in the law review to speak about their research. Affinity groups or professional interest groups might provide relevant speakers, or hold a panel discussion on a current topic of interest. These are all great ways to learn more about the areas of law that interest you, as well as network!

Your school might also host conferences or continuing legal education (CLE) events. While these are typically geared towards practicing attorneys and professors, they might need student volunteers. Again, this is a great way to get involved, learn more about an area of law, and network. For example, my school regularly hosts a Women in Litigation Conference and an Antitrust Colloquium. While these events are geared toward practicing attorneys and professors, the faculty members that plan them use students to register participants, help the speakers, and generally volunteer at the event. In return, students get to meet people who are in their area of legal interest, and sit in on discussions they might find interesting. It can also be a great boost to your resume and is another way to get to know your professors outside of class.

## **XI. Conclusion**

Now that I've gone through the various types of activities you can engage in outside of class, what might you be interested in?

Jot down a few of these groups or activities that interest you now, and make it a point to learn more about them in your first semester. At the end of the semester, come back and revisit this list to determine if your interests are the same or have grown or evolved as you have broadened your exposure to the practice of law.

Remember that law school involves more than just the classes and you get out what you put in. That means that being involved and engaged will be good for your mental health, good for your sense of community, good for networking, and good for your resume. It's a win all around!

Now for a little mini quiz!

## Interactive Questions: Extracurricular Activities



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<sup>1</sup> LSSSE, or the Law Student Survey on Student Engagement, finds that year after year engagement benefits law students. Deo, Meera E, Jacquelyn Petzold, and Chad Christensen. Rep. LSSSE 2021 Annual Report: The COVID Crisis in Legal Education, 2021. <https://lssse.indiana.edu/wp-content/uploads/2015/12/COVID-Crisis-in-Legal-Education-Final-1.24.22.pdf>.

# 7. Family Matters, Finances, and What the Heck is The Bar?

## I. Exams Required for Licensure

In addition to graduating from law school, in order to get your license and start practicing law, you'll have to take two other exams—a state bar exam and the Multistate Professional Responsibility Exam (MPRE).

### a. The Bar Exam

Almost every state<sup>1</sup> requires that to be licensed to practice law, you must pass that state's bar exam. Currently, as of 2022, the bar exam is a two-day exam consisting of essays and multiple-choice questions. However, there is a chance that the format might be changing soon. For any up-to-date information about the bar exam, deadlines, applications, and so forth, please see your jurisdiction's website<sup>2</sup> or visit the [NCBE's website](#).

Each state chooses how to license its attorneys, and most use a “bar exam” to do so. Each state gets to decide what this exam looks like, as well as how to grade it. However, for every state, the bar exam takes place in the last week of February and July. This means that if you graduate in May, you will likely take the bar exam two months later in July. If you do not pass, your next chance to take the exam will be the February of the next year. Most states have a two-day exam, and most use both multiple-choice and essay questions. In fact, many states currently use the “Uniform Bar Exam.”

“I had never thought about actually becoming a lawyer. I just knew I wanted to go to law school. My friends in law school had to tell me that if I wanted to be a lawyer, I had to take the bar exam, and I had to apply to take it. I spent my 3L spring scrambling to fill out the application and figure out how to afford a bar review course.”

-Rebekah C, Class of 1995

## b. More on the UBE

The Uniform Bar Exam, or UBE, is currently the most common bar exam. Over 40 jurisdictions have adopted the UBE,<sup>3</sup> meaning that those jurisdictions are all using the exact same test with the exact same questions. The UBE is administered on the final Tuesday and Wednesday in July and the final Tuesday and Wednesday in February. On Tuesday, the test consists of two “multistate performance tests,” where the examiners give you a task and a “file” and ask you to draft a legal document in the morning, and six essay questions in the afternoon. On Wednesday, the test consists of 100 multiple-choice questions in the morning, and 100 multiple-choice questions in the afternoon.

Each state gets to determine its passing score, as well as its grading.<sup>4</sup> Each jurisdiction also gets to decide requirements for who gets to sit for the bar exam.

A feature of the UBE and its widespread adoption is the transference of scores; for example, if you take the bar exam in Illinois, you can transfer that score to other states without taking the bar exam again. This is great news if you aren’t sure where you want to practice right away! Of course, your score must meet the definition of “passing” in the transferee jurisdiction for it to permit you to practice there. (Remember, different jurisdictions set different passing scores.) However, “UBE jurisdictions will accept transferred scores that meet their own passing standards whether or not the score met the passing standard in the testing jurisdiction, assuming all other admission requirements of the jurisdiction are met.”<sup>5</sup> It should also be noted that each state has a different “expiration date” on the scores they will accept, meaning this portability only lasts a few years, not forever.

Whether you are taking the bar exam in a UBE district or a non-UBE district, you are likely going to have many questions about cost, timing, how to study, when to apply, and so forth. It is likely that your school will help you answer these questions, especially as you get closer to graduation, but I will try to cover some common questions below.

### ***Does the bar exam cost money?***

You bet it does! It varies from state to state, but on average, the cost is about **\$1,000** to sit for the bar exam. Some states might also divide the fees up in various ways, and I encourage you to check your jurisdiction’s website early to plan for this fee. In addition, look for deadlines, including early deadlines. For example, in Illinois, if you submit your application in full for the July bar exam by February 15<sup>th</sup>, the cost is \$950. However, if you wait until May, the final deadline, the price goes up to \$1450. In my opinion, this is a significant increase, so you want to be aware of whether your jurisdiction has these types of deadlines.

It is also likely that your jurisdiction will have technology or laptop fees. These can add up, and you don't want to be surprised!

### ***What are bar review companies? Do I need one?***

There are commercial bar review companies that help you study for the bar. If you are anything like me, you are thinking “But wait, I’m going to law school, surely I don’t need a separate company to help me prep for the exam?” This is understandable thinking. However, it has been my experience that you DO need a commercial company to help you prepare. Some students do pass without them, but that is rare.

The companies can be costly: often **\$2,000 to \$3,000**. This is obviously not insignificant. My advice would be to look at various payment plans that the companies offer and check to see whether your school has a plan in place with one of the companies. Some schools get discounts or can help you with payment plans. Additionally, signing up early can sometimes help you save money. The downside is that it locks you in, so to speak, earlier than you might like.

My second piece of advice is to start budgeting for the bar exam in your first year. I know it’s hard, but it’s easier to start three years in advance than worry about coming up with the money in your final semester.

My last piece of advice here is to seek out opportunities to become a student representative for a bar review company in your first year. Typically, these companies “table” at law schools, meaning they set up in your law school’s lobby or other common areas and try to sell you on their company. While being a student representative for a bar review company does require some work, including spending time at their tables and recruiting your classmates, it often means you get a bar review course for free in return. This is the path I took because I really didn’t have the \$2,000 to spend!

### ***How long do I need to prepare for the bar exam?***

I usually recommend that students spend about 10 weeks studying for the bar exam. However, this assumes that you can spend about 50 hours a week studying. If you work full time or have family obligations, this isn’t realistic. If that is the case, you need to think about studying earlier. You also know yourself and how your brain works. If you are someone that needs more breaks, does better taking weekends off, or has other obligations that summer, starting a bit earlier will give you room to do all of that. For example, I often get migraines. This means that on a migraine day, I will not get anything accomplished. So, if I were planning out my study schedule, I’d start a bit early to account for the fact that I’m likely to get at least two to three migraines in those 10 weeks and lose valuable study time. Plan ahead so you can tailor the schedule to fit your needs.

My school has a weekend JD program, and those students work full time and often have families. For those graduating in May, I start them on a study plan in January, while they are still taking classes. This just helps give them a head start. Even if you aren't working full time, if you start studying a bit earlier, you are giving yourself more time to take breaks closer to the exam.

In your second year of law school, I'd seek out your administrator or professor that is in charge of academic support or bar preparation and see when they suggest you begin your studying. If you work full time, I'd also reach out to the bar companies and see which one has the best format for your work schedule.

### ***What is Character and Fitness?***

Each state requires you to submit a character and fitness application with your bar exam application. This is essentially a background check. They will ask you for all past addresses, employment, driving records, and more!

Keep in mind that it is always better to disclose than to not disclose. When in doubt, let them know! Each state's application is slightly different, but they are all looking for candor in the application. Even though you are just starting out, and applications aren't likely due until the spring of your final year, there is no harm in downloading a copy of the application now and being prepared.

I can't emphasize enough how important it is to disclose, as the act of ignoring or misleading bar examiners is worse than the actual act you didn't want to disclose. Many schools will also discuss your concerns with you, sometimes even before admissions, and discuss ways to handle things that you might be concerned about.

### ***A note about deadlines:***

Each jurisdiction will have its own deadlines, and these deadlines are firm and without exceptions. Some states require you to start the application process in your second year of law school.

If you know where you want to be licensed, go to that website now and note the applicable deadlines.

## **c. The Multistate Professional Responsibility Exam (MPRE)**

There is yet one more exam that most states<sup>6</sup> require for licensure: the Multistate

Professional Responsibility Exam (MPRE), or ethics exam. The MPRE is currently 60 multiple-choice questions that test the Model Rules of Professional Responsibility. This covers things like duties to clients, how lawyers are required to handle client money, our duty of confidentiality to clients, our duties to the profession, and so much more.

Some states require that you take this exam prior to sitting for the bar exam, though most only require that you take it before you are sworn in. It's important to check these deadlines as early as your 2L year so you can plan accordingly.

The MPRE is offered in March, August, and November. I usually suggest that my students take the exam in the summer prior to their final year of law school, though it completely depends on your schedule.

#### Exploration Exercise: The Bar Exam



*An interactive H5P element has been excluded from this version of the text. You can view it online here:*

<https://halefirstgenguide.lawbooks.cali.org/?p=46#h5p-29>

## II. Family Matters

If you are the first in your family to go to college, you might find it difficult to find people in your family that can help you navigate higher education. This is especially true for law school. That's why I wrote this book, to help you with that navigation. However, something that doesn't get discussed as much as how to read and brief cases, or how to network, is how to talk to your family about what you are going through.

For example, my mother is very kind and very supportive. She has always been my biggest cheerleader. In fact, I've been licensed for 15 years and she still writes "Melissa, Esq." on things like birthday cards and packages. She's just that excited for me. This is often the case with first-generation families.

However, once upon a time, she didn't know what Esq.<sup>7</sup> meant or what the bar exam was—or anything related to law school. This often meant that, although she wanted to support me, it was difficult for her to do so as she didn't know what I was going through. She couldn't understand why I had to study for a bar exam after studying for three years of law school, and why I couldn't work as a lawyer as soon as I had graduated. My mother also didn't understand why on earth I couldn't work and study, because after all, I had done that in the past. My mother and grandmother also kept saying “You'll do fine, you always do fine” which means their heart was in the right place, but it wasn't at all useful.

First of all, communicate with them. Below, I've written a letter to any parent or family member of your choosing. Revise as you see fit and then give it to whoever you think might need to read it. Second, share with them what is happening and take advantage of opportunities for them to learn more about your situation. Most law schools have family night events or an equivalent. Invite them if they are able to go! Most of your professors and administrators are happy to meet with them. I host a family night on Zoom for my first-generation students, and I invite my mother. The idea is to allow the parents, spouses, kids, or other supporters to ask questions of both me, and my mother! We also invite other school professors and administrators so that they can chime in as well. The more your family knows, the better they can understand and support you. If they can't get to your school for events, I fully understand. My mother was halfway across the country from my law school, so she wouldn't have been able to attend events or orientations for family. But I often shared experiences, concerns, and even the ins and outs of my day with her, and this helped her figure out how to support me.

Finally, don't be afraid to set boundaries. As I've mentioned before, tradition and a support system can be key to your well-being. You should not stop communicating with or seeing everyone you care about—you need them! However, I encourage you to let your family know that you might need to decline events or might not be able to talk as much as you used to. Before law school, I called my grandmother daily. Probably twice daily if I'm being honest. This was a habit that started as soon as I could dial a phone and continued through college, no matter what was going on in my life. Even on vacation, I'd find time to check in. So, when I started law school, I had to say “Honey (we called my grandma ‘Honey’) I am going to be very busy and won't be able to call you every day, so don't worry about me. I'll still call you when I can, I promise!” Turns out, I called her more than I thought I would, close to every day, but telling her that she shouldn't expect a daily phone call was incredibly important for setting expectations for both of us. You might also still have family events or holidays that come up, and it's not practical to attend or participate the way you used to. I missed family Thanksgiving all through law school. My parents and grandparents were bummed, but I just couldn't afford (nor could my parents) to travel at Thanksgiving, Christmas, AND spring break. So, I picked Christmas, and that was my yearly trip home, for the most part. It also



meant missing things like birthdays and other family gatherings. It was hard at times, but setting expectations helped everyone come to an understanding. It also meant that family knew not to push when I said no. They may have the temptation to say “but you are good at time management” or “surely you don’t need to study even MORE, you are so smart”—these are things family members often say! However, if you explain that this is different from before, they are less likely to push you when you say no.

As I mentioned earlier, to help, I’ve written a little letter for you to share that you can modify to fit your needs:

#### Sample Letter to Your Family

Dear First-Generation Family,

Hello! I was a first-generation law student, and am now a first-generation lawyer and professor. I just want to tell you some things I wish my parents and grandparents had known as I was starting law school.

First, I know you are so proud of your family member as they enter law school. You’ve also likely seen them accomplish so much over their life. However, please understand that law school can feel like an entirely different world where everything is new. This means that your high-achieving and successful family member might stumble a bit from time to time, and that’s okay. Please refrain from saying things like “you’ll be fine” or “you always do well on exams” and other things that are similar. You mean well, and you want to be encouraging. My mother and grandmother, on a regular basis, used to say “but you’ve never ever failed anything, so you’ll be fine.” It was meant to reassure me, but instead, it put added pressure on an already stressful and anxious situation. Instead, tell them that you understand this is new and maybe even terrifying, but you know that they will do their best and that you will love them no matter what. It might seem obvious, and you might not think you need to reassure them in that way, but it will probably do wonders!

Now, the issue of work. It’s fairly common for first-generation students to work through high school and college, so it’s tempting to work through law school as well. In fact, it might be necessary. I have students that work and go to school, and they make it work. However, if I’m being completely honest with you, it makes things so much more difficult. In fact, the American Bar Association strongly advises against working during a student’s first year. Studies show that students who work often don’t do as well, especially in their first year. This is difficult if your family is like mine. I’m not going to tell your family member to not work, I’m just being honest about the reality. In addition, there are often opportunities to do unpaid internships or externships that become time-consuming, but can provide invaluable experience and networking and can often lead to jobs after law school.

Next, the bar exam. Your family member will have to take a licensing exam roughly two months after graduation. They are not a lawyer until they pass this exam, and are sworn in. Though the timeline may differ slightly, typically students graduate in May, take the exam in July, find out they passed anywhere

between late September and early December, and get sworn in from the end of November until the end of December.

This means that even though they have graduated in May, it can be another six months before they are licensed and can call themselves an attorney. This also can mean six months without a job, which is scary. While some firms and organizations hire prior to this, not all do. I point this out because my mother didn't believe me when I told her I couldn't actually practice law upon graduation.

It should also be noted that the bar exam typically requires about 500 hours of study over 10 weeks. That's a full-time job! It's an incredibly intense and difficult two-day exam. Students will take a commercial prep course to study, even though they have been studying for three years. Again, something my mother couldn't quite believe. But I promise you that in order to succeed on the bar exam, a commercial course and 500 hours of study are normal and highly recommended. In addition, both the bar exam and the commercial course can cost a considerable amount of money.

One last thing about the bar exam: it's especially important that you don't tell your family members things like "of course you will pass" or "it's only a test." So much hangs in the balance, and smart, studious, hardworking students have failed and have to take it again. This can be heartbreaking, but does not mean they won't be a good lawyer!

Finally, be understanding if they don't have as much time to spend with friends or family, or they have to decline family events. Law school is intense and time-consuming, and the best thing you can do for your family member is to just listen when they want to talk, and understand when they can't.

Sincerely,  
Professor Melissa Hale

Finally, when I say "family," I'm aware that can look very different, depending on the person. So I give you these words of encouragement:

"I started my college journey 14 years after most people. Not only was I already in my thirties, I had only completed a sixth-grade education. To say I was scared of failing was an understatement of the century. I was a foster child, and with no parents to tell me how important getting my education was, I slowly slipped through the cracks and lost all sight of my dreams. Finally, I made a decision to stop letting fear control my life. I was tired of just surviving, I was set to thrive. I had to prove to my son that no matter where we came from or what challenges we had to overcome, hard work and determination ruled the day. Before I could even begin the journey, I had to get my GED so I could get financial aid. I remember the day I took all four tests and passed. I remember the joy and pride that filled my soul as I got one test score back between each exam. That same day, with tears in my eyes, I walked into Tulsa Community College, applied for admission, enrolled in classes, filed my financial aid application, and started the process to join the TRIO program. My challenges did not magically stop because I was in college. I had to find a way to be a mother, wife, employee, and full-time student. Six months in, I found myself struggling with imposter syndrome. I was alone, even when surrounded by people who were cheering me on. Add on the coursework, the lack of hours in a day to get everything done, missing my son's baseball games for class, and the monetary cost of being a college student. It all became too

much for me and I attempted to take my own life. Thankfully, by the grace of God, I survived and found a support system that was able to teach me coping skills for when life got hard again. In May 2021, three years after the attempt on my own life, I graduated from Northeastern State University with a 4.0 GPA. I had obtained an Associates in Business and a Bachelors in Psychology. The same month, I was accepted into five of the six law schools I applied to, including the University of Montana. While I still struggle with imposter syndrome and trying to find my place amongst generational college students, I know when I succeed, I am setting the precedent for other low-income, first-generation students to do it too. I am using my time at UM to advocate for First-Generation support, specifically at the graduate school level. All students should know they belong in higher education.”

-Bethany Niman

### III. Finances

I’m not a financial advisor, and I don’t even play one on tv. So, my best advice will always be to consult with your financial aid advisor. Having said that, below are a few things to keep in mind.

#### ***Law School is Expensive***

I am very much in favor of people going to law school, and will always encourage people to do so. However, the fact remains that tuition is expensive, and most of us have to take out loans to pay for that cost. When taking out loans, really pay attention to repayment options and how the interest will add up. Also, look for scholarships. I chose my law school because they offered me a full scholarship, which is a completely legitimate reason to choose a particular law school. Also, look at job prospects. Don’t assume you will be making a large amount of money right after graduation. Look at the average attorney salary in the area, and especially concentrate on what graduates of your law school or your planned law school do for work and how much they make. Salaries will vary greatly from geographic region to geographic region, and they also vary between areas of practice (type of firm, type of law, private versus government attorney, public interest, and so forth). Also, note that different cities have different costs of living, so don’t forget to factor that in.

Finally, working and completing a full-time program is difficult. It’s incredibly difficult. My loans are simply because of the cost of living in a major US city. Don’t overlook weekend and evening programs. I won’t lie, it’s incredibly difficult to work full time and go to law school at all, but weekend and evening programs will provide greater flexibility and allow you to work.

## **Hidden Costs**

These costs aren't hidden so much as things that you will be unaware of if you haven't had much interaction in the legal community. First: books. They are typically very expensive. You can find used ones, but even they can be costly. Also, you'll want to factor in supplements. While the school library can be a great resource for free or low-cost books and supplements, that's not always the case. You might also want to look to see whether your law school has a book exchange program, often organized by the SBA. Finally, sometimes you can find a way to rent books, which can still be costly, but it is less than if you have to buy them outright.

As mentioned above, the bar exam is also costly. There will be a cost to register for the exam (roughly \$1,000 depending on the jurisdiction), the cost of a commercial preparation course (roughly \$3,000<sup>8</sup>), the cost of studying itself as you can't work, or can't work as many hours, and things like laptop fees. Again, for commercial bar prep courses, in your first year you may have the option of becoming a student representative for the company. Take that opportunity! It can mean a free course for yourself, so jump on that if you can! Sometimes firms will pay for your bar review if you are hired in your third year. This is a great opportunity, but doesn't happen with every legal job. Also, there are often scholarships provided by the bar companies from time to time if you do public interest work.

Speaking of hidden costs, be aware of the costs of technology. You likely will need a laptop for law school as well as the bar exam. If your current laptop is older, make sure it's compatible with things like the exam software your school will be using. You can always check with your school's IT department. Also, some schools have programs that allow you to rent various things like laptops, internet hot spots, and so on. This isn't always the case, but it's worth looking into!

Finally, don't forget about things like clothing and professional cleaning for that clothing. You will need professional clothing, specifically suits, for internships, clinics, externships, and job interviews. These can be shockingly costly and add up quickly. My advice would be to first check with your law school affinity groups and SBA. Sometimes they have programs where professors and alumni donate suits to those groups, who then distribute them to members. Sort of a law school closet, if you will. Don't discount things like Goodwill and outlet shops, which can have great options at low costs. Finally, it sounds obvious, but look at stores like Ann Taylor, or similar, and keep an eye on clearance and sales. I say this because at least once a year Ann Taylor has a great suit sale! Your career services office can also give you advice on what is appropriate to wear to interviews, as well as to any jobs. What is appropriate professional wear changes from industry to industry, and sometimes even within the industry from city to city and from job to job. For example, I've been in the legal community in Boston, New York City, Washington, D.C., and Chicago. While the differences aren't shockingly different, the norm for professional dress does vary slightly. Moreover,

what I typically wear on a daily basis to teach at a law school would likely be considered too casual for court or a large firm. This is why asking career services for advice will not be seen as out of place.

Finally, for all things financial, [AccessLex](#) has a variety of good programs focused on financing law school, repaying student loans, and budgeting for law school. They also have a [scholarship databank](#) that you should look into!

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[1](#) Wisconsin allows for diploma privilege, which means that if you graduate from a WI law school, you don't have to take a bar exam in order to be a lawyer in WI.

[2](#) Each state has its own licensing website. The NCBE provides a directory of all state's websites, at <https://reports.ncbex.org/comp-guide/directory/>.

[3](#) For a complete list of UBE jurisdictions, go here: <https://ncbex.org/exams/ube/list-ube-jurisdictions>.

[4](#) For a list of minimum scores, go to: <https://ncbex.org/exams/ube/score-portability/minimum-scores/>

[5](#) "UBE Score Portability." Uniform Bar Examination. National Conference of Bar Examiners. Accessed May 18, 2022. <https://www.ncbex.org/exams/ube/score-portability/>.

[6](#) Not every state requires you to take the MPRE to be licensed, and not every state requires the same score. Currently neither Wisconsin nor Puerto Rico require the MPRE. For most up-to-date information on which jurisdictions require the MPRE, please go here: <https://ncbex.org/exams/mpre/>.

[7](#) Esq. is short for "Esquire." Esquire typically means you have passed the bar exam, and are licensed to practice law. In short, it's another way of saying "Attorney at Law." In the United Kingdom, esquire is a title of respect given to men, and historically means "next to Knighthood," and was often given to landed gentry. So you can imagine how my husband's English family reacts when I use Esq. after my name!

[8](#) The companies tend to be BarBri (<https://www.barbri.com/>), Themis ([www.Themisbar.com](http://www.Themisbar.com)), Kaplan ([kaptest.com](http://kaptest.com)) and AccessLex Helix Bar Review ([https://www.accesslex.org/helix-bar-review?f\[0\]=areas\\_of\\_focus\\_tools:15](https://www.accesslex.org/helix-bar-review?f[0]=areas_of_focus_tools:15)).

# 8. Health and Wellbeing

## I. The Importance of Taking Care of You

It's always important to take care of yourself, no matter what school or profession you are in. However, the sad fact is that law school and the legal profession have incredibly high rates of depression and anxiety, as well as high rates of substance use disorders.<sup>1</sup> In addition, law students experience depression and anxiety at a higher rate than students in other graduate programs.<sup>2</sup> I don't say that to scare you, and I hope it's not overly doom and gloom. I say that to make you aware of why it is so very important that you take care of your mental and physical health, including utilizing available resources, while in law school and in practice.

If you are wondering about the benefits of taking care of yourself beyond just feeling better, the fact is, it will make you a better student. Your ability to study, process, and retain information can be greatly impacted by your mental health.

For example, high levels of anxiety actually hinder your ability to retain information, which is the exact opposite of what you want. There are plenty of scholarly articles that link anxiety and memory loss. Moreover, depression can cause you to lose focus and motivation, which is obviously going to hinder your ability to study. Anxiety and stress, both common in law school, impact your nervous system, which in turn, impacts cognitive processing.<sup>3</sup> Normal anxiety can actually help with memory, as can any strong emotion.<sup>4</sup> However, that has its limit. According to Myra Fernandes, professor in the Department of Psychology at the University of Waterloo and co-author of a study<sup>5</sup> on anxiety, "To some degree, there is an optimal level of anxiety that is going to benefit your memory, but we know from other research that high levels of anxiety can cause people to reach a tipping point, which impacts their memories and performance."<sup>6</sup>

This means that now is the time to develop good habits in terms of self-care that you can use throughout law school as well as your career. Some good habits might include building in time for exercise and getting outside (even if it's just a walk around the block), taking short breaks from apps or social media, routine check-ins with those in your support circles, prioritizing sleep, and so forth. Way easier said than done, but there are lots of resources online about how to do this, including some specifically for law students.<sup>7</sup>

On a very simple note, take time when you need it, mentally or physically. It's very tempting during law school to push through illness. I am urging you not to. If you are sick, take the time you need to heal. Talk to your dean of students about absences and making up missed

assignments. There are multiple reasons for this. First and foremost, you won't perform your best if you are sick. That may seem obvious, but so many students try to push through colds, the flu, etc. In addition, taking one to two days off to fully rest and heal might mean you are more productive in the long run! If you continue to push through at less than 100% for too long, your health will only get worse and you may be less productive overall, need more time to recover, or worse, end up in the hospital. This applies to both physical and mental health. Being proactive is a bit easier, sometimes, when it comes to physical health; you can stay in bed if you have the flu, drink lots of fluids, get some extra rest if you have a cold, and so forth. But do not forget that the same applies to your mental health. Be proactive and take measures to ensure your mental health: seek out a therapist if that works for you, find coping techniques for anxiety, and make sure you have a good support system.

Here is an example. I started getting migraines my very first semester of law school, which was a super fun time for that to happen. I still get them over 15 years later. It took a long time for me to learn that when I feel one coming on, I need to step away from the screen, lay down, and wait it out. It was only when it was pointed out to me that I needed to practice what I preach that I started really taking my own advice. A couple of years ago, I met with a student who had struggled their first semester and had not received great grades. It turns out, they had been struggling with migraines and getting the right medications. They were also trying to push through and work through migraines. I advised the student to fully let themselves heal when a migraine episode came on. Sure enough, the next day I found myself staring at the screen for 45 minutes, trying to make sense of the words as I tried to work through a migraine. My Dean of Students, who also suffers from migraines, noticed and made me go home with a stern lecture about practicing what I tell my students. I assume this was life's way of hammering that point home. And I'll be honest, it's not fair to my students when I work through my migraines, nor was it fair to my clients. I'm not at my best, and my students deserve me at my best.

In this chapter, you will find advice on how to handle the mental health challenges that come with law school.

## II. Life and School Balance

The first part of taking care of yourself is having a life and school balance. Yes, I realize what law school expects of you, so this sometimes feels unrealistic. But I urge you to find a way to maintain that balance. Keep doing what makes you happy, to a certain extent.

For example, prior to starting law school, I was a dancer. It was a large part of my identity,

and it took up a considerable amount of time. Dance has also been consistently my favorite thing to do since about age three. However, my thought was, “Well, I’m in a serious professional school now, no time for dance!” And while it was true that I had to cut back a bit—there was no way I had time to be in the studio for hours a day the way I had been before law school—I didn’t have to completely remove that part of my life. I did, and I regret it. I’ve since come to recognize that dancing is a large part of what makes me who I am, and it’s a large contribution to maintaining my physical and mental health. So you can cut back on things, but don’t lose them completely. The legal profession needs you to still be you. I talk to students all the time that have love of dance, theater, a musical instrument, running, basketball, knitting, painting—you name it! Keep doing those things that make you happy.

Similarly, everyone hears horror stories about law school taking up 100% of your time, to the extent that you should tell your friends and family that you’ll see them in three to four years. While I certainly don’t think you have time to socialize seven nights a week, I urge you to maintain your relationships. You need a support system while in law school, and hopefully part of that support system will be your classmates, but it’s incredibly helpful to have those non-legal types in your corner too. It’s also important to set boundaries with family and friends. Yes, socializing is important, but it’s also important to communicate to family and friends when you will be unavailable and ask them to respect that.

Keep your traditions, as well. If going to religious services, Sunday dinner with family, or date night with a partner are things that are important to you, keep doing those things. I moved across the country for law school, which meant that I was in a strange city with no friends or family. I’m happy to report that my classmates became a great support system, but you also better believe I called my grandmother every week, sometimes more. I absolutely needed to do that on a regular basis.

Finally, sometimes you just need time for you. You can absolutely take time for yourself to relax and decompress. That is going to take different forms for different people, but don’t feel guilty about the time you’re not being productive. You ARE being productive, just in a different way. Think of time for yourself as a way to recharge your batteries. You can’t get your work done if you are running on empty!

### III. Peer Groups and Support

A great source of mental well-being is finding a peer group and using them for support. Family and friends that you had prior to law school can be a great resource here. If you are first gen, family members might not really get what you are going through when it comes



to law school, but that's okay. Sometimes it's nice to have people outside of the law school sphere that you can lean on a little.

However, it's incredibly helpful to have a support system on campus at your law school. Hopefully, this can be a group of students you meet during orientation! During the previous chapter, I talked about student groups, specifically, affinity or professional groups. Fellow members can be a great source of peer support and usually understand exactly what it is you are going through. You might also have different groups that fill different needs: a study group, a group of friends that are not law students, and an affinity group that you find comfort in.

## IV. Imposter Phenomenon

"I have written 11 books but each time I think 'Uh-oh, they're going to find out now,'" the novelist Maya Angelou once said. "I've run a game on everybody, and they're going to find me out."<sup>8</sup> She said this despite the fact that she had been nominated for the Pulitzer Prize and had won five Grammys for her spoken recordings, plus other awards! Not to mention, Ms. Angelou is widely regarded as an amazing writer and icon.

Imposter phenomenon, previously called imposter syndrome, was initially identified in 1978 by psychologists Pauline Rose Clance and Suzanne Imes. They described it as a feeling of "phoniness in people who believe that they are not intelligent, capable or creative despite evidence of high achievement."<sup>9</sup> This phenomenon involves a fear of rejection and failure, coupled with perfectionism, and "[T]hese thought patterns create a perfect storm of insecurity, anxiety, and stress."<sup>10</sup> It also creates a fear in an individual that they do not belong and others who do belong will soon discover they are a fraud.<sup>11</sup>

This feeling is common for so many starting law school, but it's especially common in first-generation students. It's also become a larger problem because of social media. You may have heard that social media has us comparing our behind-the-scenes to highlight reels. For example, I tend to post on social media when I'm proud of something or happy. I don't post on social media when I'm sobbing in a pint of ice cream and feeling like an absolute failure. This is an important distinction to remember! Don't compare your insides, which only you know, to the outsides of others. When we do this, we judge ourselves as lacking. While this isn't academic in nature, I have a friend, a mom, who always laughs at the "happy family" photos posted on social media. She says she'd love to see all the failed attempts when the kids are fighting, or have a runny nose, or are making odd faces. The point is, we see that one "perfect" photo of the family smiling happily together in a field, or wherever, but you

have no idea how long it took to get that photo or how many “bad” photos are out there. Moreover, people who suffer from imposter phenomenon attribute their success to luck, perfect timing, or other external factors, instead of their own abilities, work, or intelligence.<sup>12</sup>

Imposter phenomenon can also be made worse by the cognitive bias known as the Dunning-Kruger effect, which means those that you see as incredibly confident may be confident because they don’t realize how much they don’t know. In psychology, the Dunning-Kruger effect is “a cognitive bias whereby people with limited knowledge in a given intellectual or social domain greatly overestimate their own knowledge or competence in that domain relative to objective criteria or to the performance of their peers or of people in general.”<sup>13</sup> Essentially, those TRULY unprepared or incompetent rarely worry about being unprepared because they don’t have the means to realize just how unprepared they are. This means that if you feel like you are an imposter, and worry about it, it’s likely that you are not, in fact, an imposter. I’d like to stress that this does NOT mean that if you are confident in a certain area you are not competent, or that the confidence is false. It simply means that when you learn more about an area, particularly in the law and in law school, it is perfectly normal to feel less confident about your knowledge. This is why experts tend to say things like “it depends.” But if you are confident in something, keep building on that confidence. Also, keep in mind that people around you might sound or look confident, but you don’t know what’s going on in their head, so they might not be as confident as you think they are. All of this is to say that if you were admitted to law school, you are capable and you belong. Try to remind yourself of that.

So, how do you overcome imposter phenomenon? Well, here are some ideas:

**Write it down.** Write down achievements, and track your successes. This way you have legitimate data about your own accomplishments to prove to your brain that you are not an imposter.

#### Reflection Exercise: Personal Accomplishments



An interactive H5P element has been excluded from this version of the text. You can view it online

here:

<https://halefirstgenguide.lawbooks.cali.org/?p=48#h5p-30>

**Talk about it.** The more we talk about imposter phenomenon and how everyone suffers from it, the easier it is to see that it's not real. Starbucks CEO Howard Schultz says, "Very few people, whether you've been in that job before or not, get into the seat and believe today that they are now qualified to be the CEO. They're not going to tell you that, but it's true."<sup>14</sup> I try to share with all of my students how I still have imposter phenomenon. I have been practicing law for 15 years, and teaching for almost as long, yet I still fear that I will be "found out" as a fraud, and not as good as people think I am. In fact, I have yet to meet a single successful lawyer who has not suffered from imposter phenomenon. It helps to know this. Even Lady Gaga has her doubts, stating "I still sometimes feel like a loser kid in high school and I just have to pick myself up and tell myself that I'm a superstar every morning so that I can get through this day and be for my fans what they need for me to be."<sup>15</sup> Finally, from Supreme Court Justice Sotomayor: "I have spent my years since Princeton, while at law school and in my various professional jobs, not feeling completely a part of the worlds I inhabit. I am always looking over my shoulder wondering if I measure up."<sup>16</sup>

**Learn to accept failure and let go of perfectionism.** See below for an entire section, and CALI Lesson, on grit and growth mindset. Accepting failure, and learning from it, is one of the keys to success. Not to mention, there is no such thing as "perfect." In fact, perfect is the enemy of progress. You, and everyone else, will always find a way to improve—so let go of the idea that you or your work must be perfect.

**Embrace your strengths.** There are things you are good at, that come easily. But it's easy to think "everyone is good at this" or "this comes easily for everyone." Not true—embrace your strengths!

## Reflection Exercise: Personal Strengths



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=48#h5p-31>

**Attribute your successes correctly.** When you find success—getting into law school, getting a good grade, getting an internship—attribute that to you and your hard work and skill, not luck.

**Stop comparisons.** Don't compare yourself to others—in class, in the profession—just focus on YOU. And if people give you a compliment, or say you are doing a good job, BELIEVE them.

## V. Test Taking and General Anxiety

One of the most common issues that comes up for my students is testing anxiety, or anxiety in general. This is not uncommon. As mentioned above, it is always best to speak to a clinical professional, such as a therapist, as they are best suited to provide help. However, if that is not possible for any reason, I do have some tips below!

First and foremost, testing anxiety, or anxiety in school, tends to be about fear and identity. Grades can be a large part of identity, and it's easy to let them define your worth. This then leads to anxiety around the exam itself. I realize it's easy for me to say this, but I promise that grades do not define you, or your worth. I also think realizing that this is at the heart of much of testing anxiety can help “name a thing” and overcome it.

Having said that, there are some strategies to combat the anxiety.

**Self-care is not selfish.** You need sleep, and you need nutrition. To use a sports metaphor, athletes need to rest in between training otherwise the muscles aren't going to be as effective. Your brain is a muscle. You need to rest it, and let it process information.

You need to take breaks and find balance. Again, easier for me to say, I know. But please, as mentioned in the first section of this chapter, try to find some of that balance: take breaks, sleep, eat, and rest your brain. This is coming from the person whose job it is to tell you to study, so you can trust that taking those breaks is not selfish or wrong!

Also, mindfulness can be an important aspect of self-care. CALI has a lesson on this: [Mindfulness Practice for Law School](#).

**Find joy and comfort.** No, really. Write down one thing that brings you joy, one thing that you find comforting, and one thing that you find relaxing. When is the last time you've done any of these things? Look at your calendar—are you making time for these things? Yes, I know you have overpacked plates as it is, much of that the fault of law school. However, if you can schedule even 20 minutes for something that brings you joy, comfort, or relaxation, it's definitely worth it, and this can go a long way in reducing anxiety.

**Write it down!** The University of Chicago did a study<sup>17</sup> with two groups of test-takers. In all aspects, the demographics were the same. One group was asked to take five minutes and write down every negative thought, crumple it up, and throw it away. When they did that, that group's test scores went UP between half and a full grade. Why? Because the negative thoughts take up part of your working memory. When you put it on paper, it doesn't have to stay in working memory. Then you have the physical effect (throwing it away) of getting rid of those negative thoughts. This frees up working memory, leading you to perform better on tests.

Don't believe me? Check out a [summary](#) of the study or the [actual study](#). And here is a [similar but different study](#) done in Colorado.

**Celebrate successes.** That's it. Write down your successes. Celebrate them. Brag about them.

**Take deep breaths during the test.** Last but not least, one of my favorites: Ayurvedic Breathing, or 5-2-8 breathing. Essentially, breath in while slowly counting to 5, hold it for 2, and breath out while counting to 8, longer than you breathed in. Do this 3 times. This is a great technique to use DURING an exam, especially if you start to feel anxious or panicked.

**Practice makes prepared.** Not perfect, prepared! This also helps reduce anxiety. The more practice exams and hypotheticals you write (not just read and outline but write) the better prepared, and less anxious, you will be.

On that note, I will leave you with the letter that a first-generation tenured professor writes to their students!

“I suspect some of you are starting to get anxious. Although stress is actually performance-enhancing up to a point, we all know that too much stress decreases performance. So I write to offer some thoughts with the hope that they might help anyone who is struggling to manage their stress level and keep it in a more optimal range.

First, I want you to know that I was a first-generation student ... at West Point (my father was medically ineligible for military service), then law school, then in two graduate degree programs after that. At EVERY stage, I wondered if I had reached too far ... if I was good enough. Well, as it turns out, I was better than the little voice in my head would let me believe, but that did not stop me from struggling with “imposter syndrome” every step of the way. If you are having these types of feelings, know that you are not alone and that you can succeed. It may not be as easy as you would want it to be, but you can do it.

Remember also that we would not have admitted you if we did not think you could be successful in the study of law. You may or may not perform as well as you hope to this semester, but you have already shown us that you have the capacity to succeed. Some of my best students did not find the “sweet spot” for them until their second or third semester in law school. Others started well and then got a little complacent and struggled. For various reasons, some very successful law students do not pass the bar exam the first time, and some students who struggled in law school do.

What is the lesson? No matter how well you perform on your exams this semester, your grades will not define you as a person, as a law student, or as a future lawyer. They do not predict your future success in life or in the practice of law. They are only a measure of where you currently stand in relation to your professors’ expectations. They are a data point that will provide you with useful information about your study habits and test-taking skills. You can then use that information to improve if needed.

Of course, I do not mean to suggest that your grades do not matter at all. Some opportunities are more readily available to those who perform well. But even those opportunities are not necessarily lost forever. You can only do your best.

So please try to remember that your best effort will be good enough if you can keep a healthy mindset and set yourself up for success. Study hard but take breaks and get plenty of sleep. Try to walk or do other exercises for at least 20 minutes each day. Meditation/Mindfulness is helpful too. (If you have never done it, there are instructional videos on YouTube.) Find ways to relax...whatever works for you that isn’t illegal or potentially counterproductive (like excessive alcohol use).

Please also look out for each other. If you see someone struggling, try to be supportive. If they are having a crisis, help them find or otherwise get help. If you are struggling, call a supportive classmate, friend, or family member. If that is not available to you in the moment, call someone at the school, whether an administrator or faculty member.”

## VI. Seeking Professional Support

As mentioned before, finding professional help is always a good idea if possible. If you broke

your leg, you would not hesitate to go see a doctor. Well, I hope you wouldn't hesitate. Similarly, if you are not feeling mentally healthy, please seek out professional help. Even if you are feeling relatively mentally healthy, it's not a bad idea to seek out therapy as a continuous wellness option. It can be helpful to build a relationship with a clinical professional before you find yourself in a position where you need more intensive care.

You might be wondering how you know if it's time to seek out professional support, or if you are just having "normal" anxiety or stress related to a graduate program. First, sometimes even those with "normal" anxiety and stress can benefit from seeking out a professional. Second, look for signs in yourself that something doesn't feel right. Generally, people associate depression with feeling sad, or even numb. And while those feelings can be a sign of depression, there might be other signs that aren't as obvious. The National Alliance on Mental Health has some warning signs of depression in college students.<sup>18</sup> If you find yourself experiencing any of the below, it might be time to seek professional help:

- General negative feelings
- Disinterest in normal activities (especially ones you used to enjoy)
- Unexplainable guilt
- Irregular sleeping and eating habits
- Persistent pain

Likewise, if you notice a classmate experiencing any of the above, there may be ways you can help. The ABA's [Substance Use and Mental Health Toolkit for Law School Students and Those Who Care About Them](#) provides guidance for law students who might be facing a student in need, including what you can do if you believe a classmate is in danger of committing suicide.

You may hear that it's not a good idea to seek out therapy or medication because you will have to disclose it on the bar exam and it can work against you. The trend<sup>19</sup> among the states has been to shift away from asking questions about diagnosis and treatment, and to instead focus on "conduct or behavior that impairs an applicant's ability to practice law in a competent, ethical, and professional manner."<sup>20</sup> However, some states still require broad disclosure of mental health diagnoses and treatment.<sup>21</sup> You can likely check the application questions of the jurisdiction in which you'd like to practice, and see what they ask. In each case, honest and full disclosure is important. After all, the practice of law, too, is challenging, and confronting the problem early can help prepare you for the rigor of law practice when the consequences of an unaddressed mental health issue can even be more severe. Further, according to an article published by the ABA, "Very few applicants are denied admission to the bar on mental health treatment grounds."<sup>22</sup> It states that "...getting treatment shows that the applicant: has control over his or her mental health issues, is self-aware enough to know when he or she needs assistance, will follow through in getting help, has a plan for getting

help in the future, and has a support system.”<sup>23</sup> It goes on to say, “All of these factors help show that an applicant is fit.”<sup>24</sup>

If you are thinking about delaying treatment or seeking professional help because of a required disclosure, talk to your dean of students or bar professional at your school and get their opinion. In addition, each state has a “Lawyer Assistance Program” or “LAP.” Lawyer Assistance Programs provide confidential services and support to judges, lawyers, and law students who are facing substance use disorders or mental health issues.<sup>25</sup> LAPs can likely provide some guidance on navigating character and fitness issues. In addition, if you are hesitant to seek professional assistance due to cost, the LAP can be a great free alternative.

The ABA has [a list](#) of the various LAP websites by state. Go find yours, and bookmark it.

#### Exploration Exercise: Health and Wellbeing Resources



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=48#h5p-32>

Overall, just remember that it’s important that you build a support system, make a plan for self-care, and have a list of handy resources. Don’t forget that taking care of yourself is one of the best ways to succeed!

## VII. Non-Standard Testing Accommodations

Non-Standard Testing Accommodations are any accommodations that differ from the standard testing environment and rules. Many law students need Non-Standard Testing Accommodations, or NTA, for law school exams or the bar exam. What counts as an NTA may vary from test to test. For example, if I am proctoring a midterm for my students, I do not prohibit drinks or small snacks. However, the bar exam does. This means that if I have a student who is diabetic, migraine prone, or has another medical condition that requires



them to have more frequent food and drink, they wouldn't need to make a request for an NTA in my exams, but would on the bar exam.

It is important that if you need an NTA, you make that request and you use it. In addition, there are accommodations that aren't necessarily related to testing that may be relevant. Students with vision or hearing impairments, for example, might be entitled to ongoing support throughout the semester. If you've used any kind of accommodation in high school or undergraduate school, please continue to do so in law school. Even if you haven't used them in the past, you can still get them for the first time in law school. There are many reasons you might need an NTA. You might have ADHD, anxiety, dyslexia, or another learning difference. Any of these might be reasons to seek accommodations. Some examples of accommodations in class, or on exams, might be:

- Not getting “cold called” in class
- Extended time on exams
- A quiet or distraction-free room during exams
- Assistance with note-taking for students who are hearing or vision impaired
- Braille or large print exam booklets or screen reading technology
- Recording of lectures or classes
- Receiving slides or handouts in larger print
- Ability to take medication (or food and drink) in the exam room
- Standing desks, wheelchair-accessible testing stations, or seating next to a restroom

This list is not exhaustive and is very dependent on why you are seeking accommodations. It is merely meant to give you examples.

If you've had accommodations in the past, throughout high school or your undergraduate career, please seek them as soon as possible when attending law school. Now is not the time to see if you can do it without accommodations. Each law school should have a center that handles accommodations, and if you don't know where to find that center, ask your academic support professional or dean of students as they are usually the people that can point you in the right direction. You will potentially get this information during orientation, but if you don't, please ask!

I frequently meet with students who have struggled in their first semester and received less than stellar grades on their final exams. One of the first things I ask is whether they have typically used accommodations in the past, and if so, if they applied for them in law school. At least half the time they say no. When I ask why, I get answers ranging from “I wanted to do it on my own” or “I didn't know” or “I was afraid my classmates would judge me.” First, you wouldn't take a law school exam without your eyeglasses, so why, if you have been entitled

to them in the past, would you take an exam without accommodations? Second, neither your classmates nor your professors should ever know that you receive accommodations. Typically, the center that grants accommodations will know, and have your medical history, so that they may determine your needed accommodations. They will then typically send over your name and needed accommodation to the dean of students. In addition, only those who need to know of your accommodations, in order to carry them out, will be informed. If you are worried about your classmates knowing that you aren't present in the same room for exams, the classes are typically large enough that no one notices. Moreover, every other student is worried enough about their own test that they don't notice who is and isn't present.

The process of awarding accommodations can take some time, so don't wait until exam time to do this. The process can also be costly if new testing is required. If you are no longer on your parents' insurance, or your parents don't have insurance that covers such testing, look into whether your school has options. For example, if your school also has a medical school, they may offer lower-cost testing options.

If you aren't sure whether you qualify for accommodations, it can't hurt to ask. But again, start the process early as oftentimes there will be required testing and documentation. In addition, seeking accommodations on standardized tests such as the MPRE and the bar exam becomes much easier if you've set them up in law school. For more information, see the Americans with Disabilities Act (ADA) [guidance on testing accommodations](#).

If you need accommodations that aren't strictly limited to testing, please ask. Essentially, if you need something to help you be successful, don't be afraid to ask. You are adults, and you are human. You are also learning to be professional advocates, so advocate for yourself. I once had a student who was pregnant, and unexpectedly ended up on bed rest. This obviously made it difficult for her to attend classes in person. We Zoomed her in and made it work. This was pre-pandemic too! Finally, work with your dean of students or academic support professional to get what you need—they can be amazing advocates for you.

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<sup>1</sup> *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change*. National Task Force on Lawyer Well-Being, 2017. <https://lawyerwellbeing.net/the-report/>

<sup>2</sup> Jerome M. Organ, David B. Jaffe & Katherine M. Bender, Ph.D., *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. Legal Educ., Autumn 2016, at 1, 116–56.

<sup>3</sup> “The Relationship Between Anxiety and Memory Loss.” Rivier University. Accessed January 30, 2022. <https://www.rivier.edu/academics/blog-posts/the-relationship-between->

anxiety-and-memory-loss/.

<sup>4</sup> Lee, Christopher, and Myra A. Fernandes. 2018. "Emotional Encoding Context Leads to Memory Bias in Individuals with High Anxiety" *Brain Sciences* 8, no. 1: 6. <https://doi.org/10.3390/brainsci8010006>.

<sup>5</sup> Id.

<sup>6</sup> University of Waterloo. "Manageable levels of anxiety can help your memory." ScienceDaily. Accessed May 17, 2022. HYPERLINK "<http://www.sciencedaily.com/releases/2018/02/180226085752.htm>" [www.sciencedaily.com/releases/2018/02/180226085752.htm](http://www.sciencedaily.com/releases/2018/02/180226085752.htm).

<sup>7</sup> See <https://www.lclma.org/2020/09/29/self-care-strategies-updates-for-the-legal-profession/>, <https://illinoislap.org/wp-content/uploads/2021/08/Self-Care-Tips-for-Lawyers-During-a-Pandemic-Boraca.pdf>, and from the ABA [https://www.americanbar.org/groups/young\\_lawyers/publications/after-the-bar/personal-life/easy-ways-to-integrate-self-care-into-your-life/](https://www.americanbar.org/groups/young_lawyers/publications/after-the-bar/personal-life/easy-ways-to-integrate-self-care-into-your-life/).

<sup>8</sup> "Why Feeling Like a Fraud Can Be a Good Thing." BBC News. BBC, April 24, 2016. <https://www.bbc.com/news/magazine-36082469>.

<sup>9</sup> "Imposter Phenomenon." Oxford Reference. Oxford University Press. Accessed June 21, 2022. <https://www.oxfordreference.com/view/10.1093/oi/authority.20110803095959571>.

<sup>10</sup> Loewentheil, Kara. "The Imposter Syndrome Prescription." *Above the Law*, October 20, 2017. <https://abovethelaw.com/career-files/the-imposter-syndrome-prescription/#:~:text=Imposter%20Syndrome%20is%20the%20state,insecurity%2C%20anxiety%2C%20and%20stress>.

<sup>11</sup> Grenardo, David, *The Phantom Menace to Professional Identity Formation and Law School Success: Imposter Syndrome* (August 4, 2021). University of Daytona Law Review, Vol. 47, No. 3, 2022 Forthcoming, Available at SSRN: <https://ssrn.com/abstract=3899332> or <http://dx.doi.org/10.2139/ssrn.3899332>

<sup>12</sup> Grenardo, David, *The Phantom Menace to Professional Identity Formation and Law School Success: Imposter Syndrome* (August 4, 2021). University of Daytona Law Review, Vol. 47, No. 3, 2022 Forthcoming, Available at SSRN: <https://ssrn.com/abstract=3899332> or <http://dx.doi.org/10.2139/ssrn.3899332>

<sup>13</sup> "Dunning-Kruger Effect." Encyclopædia Britannica, inc. Accessed December 7, 2021. <http://www.britannica.com/>.

<sup>14</sup> "Good C.E.O.'s Are Insecure (and Know It)." *The New York Times*, October 9, 2010. [https://www.nytimes.com/2010/10/10/business/10corner.html?\\_r=1](https://www.nytimes.com/2010/10/10/business/10corner.html?_r=1).

<sup>15</sup> Yuan, Annie. "HBO Releases New Preview for Lady Gaga Documentary (Video)." *The Hollywood Reporter*, April 24, 2011. <https://www.hollywoodreporter.com/news/music-news/hbo-releases-new-preview-lady-181733/>.

<sup>16</sup> Lewis, Neil A. "On a Supreme Court Prospect's Résumé: 'Baseball Savior.'" *The New York Times*, May 15, 2009. <https://www.nytimes.com/2009/05/15/us/15sotomayor.html>.

<sup>17</sup> Ramirez G, Beilock SL. *Writing about testing worries boosts exam performance in the*

classroom. *Science*. 2011 Jan 14;331(6014):211-3. doi: 10.1126/science.1199427. Erratum in: *Science*. 2014 Apr 11;344(6180):151. PMID: 21233387.

[18](#) Abbot, Ginger. “What Are the Warning Signs of Depression in College Students?” National Alliance on Mental Health, September 13, 2021. <https://www.nami.org/Blogs/NAMI-Blog/September-2021/What-Are-the-Warning-Signs-of-Depression-in-College-Students>.

[19](#) Jaffe, David and Stearns, Janet E., *Conduct Yourselves Accordingly: Amending Bar Character and Fitness Questions to Promote Lawyer Well-Being* (December 11, 2019). 26 *Professional Lawyer*, Jan. 2020, American University, WCL Research Paper No. 2020-03, Available at SSRN: <https://ssrn.com/abstract=3504290> or <http://dx.doi.org/10.2139/ssrn.3504290>

[20](#) Rep. Resolution 102. Annual Meeting 2015. American Bar Association. <https://www.americanbar.org/content/dam/aba/directories/policy/annual-2015/2015-annual-102.pdf>.

[21](#) Supra note 17

[20](#) Hannon, Margaret. “Why the Character and Fitness Requirement Shouldn’t Prevent Law Students from Seeking Mental Health Treatment.” *Student Lawyer Blog*. American Bar Association, July 9, 2018. <https://abaforlawstudents.com/2018/07/09/character-fitness-requirement-and-seeking-mental-health-treatment/>.

[23](#) Id.

[24](#) Id.

[25](#) “Directory of Lawyer Assistance Programs.” *Americanbar.org*. American Bar Association Commission on Lawyer Assistance Programs. Accessed May 18, 2022. [https://www.americanbar.org/groups/lawyer\\_assistance/resources/lap\\_programs\\_by\\_state/](https://www.americanbar.org/groups/lawyer_assistance/resources/lap_programs_by_state/).

## 9. Career Opportunities

If you are anything like me when I entered law school, you have never met a lawyer. In fact, you may not have met anyone that is considered a “professional.” No one in my family was what one would consider a “professional”; no doctors, no accountants, and definitely no lawyers. Without these pre-existing connections, the idea of networking, and finding legal internships, can seem daunting. Have no fear, that’s why you are reading this book!

In this chapter, I try to cover as much about career planning as possible. But, as with so many other things in this book, if I have left something out, do not hesitate to ask. It is also important to note that the more lawyers you speak with, you will start to find that they might not have had a plan. Or, if they did have a plan, their career didn’t happen exactly as planned. That’s okay as well! You don’t have to have it all figured out, and in fact, you might change your mind multiple times during law school, and even after!

### I. Networking – What if I Don’t Know Any Lawyers?

Networking is vitally important. Since starting law school, I’ve had 11 legal jobs, or at least, law-adjacent jobs: one was through a clinic in law school, another was due to pure luck, and one was entirely based on my resume and qualifications but was 12 years after becoming a licensed attorney—the rest were because of networking, or someone I knew. And that seems terrifying if you are entering law school and know no one. I didn’t either, but still networked my way to eight jobs!

Keep in mind that networking isn’t a dirty word. I always feel very manipulative, or dirty in some way, if I feel like I’m setting out “to network.” Networking is just forging relationships. That’s it. Think of it as building professional relationships, or professional friendships. This should make it slightly less intimidating; you aren’t asking for a job, or anything in particular, you are asking to form a relationship. That’s it.

Your first sources of networking are your professors and classmates. Don’t be afraid to visit your professors and get to know them. Remember, they have taught students who are now hiring, and they have connections. Find a few professors who you genuinely like and connect with. It helps if you like their area of interest. For example, in my second year of law school, I took copyright law and thought the professor was fantastic. It turns out he also taught sports law, and I thought “Hey I love sports, sounds like a great class.” I was incredibly interested in the subject so I made sure to chat about aspects of class outside of class. It turns out he

was starting to write a sports law casebook and needed a research assistant. I jumped at the opportunity! This meant that we forged a relationship and got to know one another. He discovered my absolute love of ice hockey (because I kept trying to convince him that the casebook needed more ice hockey cases), so when a connection of his needed a legal intern, he sent me to them. And that's how I ended up working for the Brazilian Ice Sport Federation<sup>1</sup> as an intern, simply because my professor told them, "Hey Melissa loves hockey, and is also pretty good with sports law, you should hire her." I'm still friends with this professor to this day, and still struggle to call him by his first name<sup>2</sup> even though he reminds me we are now colleagues and have been for over a decade.

Your classmates are also excellent connections and will hopefully make excellent friends. I found my way into teaching because of a classmate. The classmate was a year ahead of me and we were very good friends—still are to this day. She had met a woman that owned a tutoring company through one of her friends. When I graduated from law school, the classmate suggested I reach out to this woman and see if I could tutor part-time. That led to tutoring, eventual adjunct work, and five co-authored books. The woman<sup>3</sup> and I now both work full time in academia and are very good friends. Talk about a great connection! All because a classmate thought of me.

When people know your interests, and what types of jobs you are looking for, they are eager to help!

I realize that the real anxiety typically comes from networking events, where it feels like you are meant to network and forge connections on demand, so to speak. Keep a few things in mind: First, every attorney in those "networking" rooms has felt the anxiety you feel. Second, you don't have to connect or network with every single person; find one or two that you really connect with. Third, if an attorney gives you their card and tells you to reach out, they mean it. Don't hesitate!

Finally, don't be afraid to reach out and set up meetings with attorneys. It feels intimidating, but lawyers love to talk about themselves. Look how much space I devoted to talking about myself and my career path! Ask attorneys you meet, or professors, to talk about their career path and why they like (or don't like) what they do. Some great questions to ask are:

- Who are your clients? Not specifically, as they can't give you names, but what type of people are your clients?
- How do you typically communicate with your clients, and how frequently?
- What does a typical day look like for you? (This can be important because it gives you insight into the daily nuances of the job, not just the high points.)
- How is your work different from a more junior attorney/senior attorney?
- Did you ever consider other types of legal jobs? If so, why did you consider those types

of jobs and why did you pursue this career path instead of the other one?

- What is your favorite, or the most rewarding, aspect of your job?
- What is your least favorite part of your job?
- How did you end up here? What steps did you take to get to this type of job?
- What was your first job out of law school, and how did you transition to where you are now?
- What made you leave your first job out of law school?

You can also ask them things about what they did in law school, such as classes they took, internships they had, or groups they were involved in. The idea is to get to know them and what they do. Obviously, alter the questions above how you see fit, but those are some good starting points.

It can be daunting to reach out to an attorney you met at an event, but rest assured, if they gave you their contact information they will want you to reach out. When you do, be courteous, remind them of where they met you, and perhaps bring up a topic of conversation you discussed.

Below is a sample of an email that you can edit and send to attorneys you meet:

#### Sample Follow-Up Email to a Networking Contact

Dear Attorney Martin,

It was such a great pleasure to meet you at the Chicago Bar Association's networking event last Thursday evening. You might remember me as the first-year law student who also grew up in Michigan.

I understand that you specialize in contract law, and I'd love to know more about what that entails. I realize your schedule must be a bit busy, but if you have an opportunity I'd love to meet for coffee and talk more about how you ended up practicing contract law, and what it's like to open your own firm.

I have class most days until around noon, but can be free all afternoon or evening.

I look forward to chatting with you further.

Warm Regards,  
Jennifer Smith

While it might seem like you don't even know where to begin, try answering the below questions:

## Reflection Exercise: Career Interests



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=50#h5p-33>

## II. Career Services/Timeline

Your first step is the CSO, or your Career Services Office. They are fantastic and are sincerely invested in your success. They can offer specific advice on the field you are looking into, they can look at your resume, and they can connect you with alumnae—they are basically magic.

Each school's CSO will typically have a unique system, mainly in the form of a website or management system. These will be very useful in obtaining information on job listings, timelines, general job-search advice, how to prepare for interviews, and help to prepare cover letters and resumes—essentially everything you need! In addition, the CSO will also post information about networking events and job fairs, mock interview opportunities, and guest speakers. This includes information on when and how to make appointments with the office. Remember, this office is magic and the people who work there should quickly become your best friends.

Also, you don't have to seek them out, they will seek you out. They will likely introduce themselves at orientation, then in roughly October or November of your first semester, they will traditionally host a workshop or meeting. This varies from school to school, but that will be your first interaction. Listen to them as they lay out the specifics of how their office works and timelines that you should be aware of. Do not seek them out before this initial workshop, as you should be focusing on getting your bearings in class. They will tell you when it's time to come to them!

Either after you receive your first semester grades or just before, you can start applying for summer internships. This timeline varies—both for employer deadlines and for when your



school will release grades—so by this point you should definitely be in touch with the CSO to get an idea for a timeline. This is typically in mid to late January of your second semester. In the fall of your second year, you will likely start to apply for summer associate positions. These are jobs for your second summer of law school. Sometimes they can lead to permanent jobs after graduation; sometimes they don't. During this semester, your school might also be hosting “OCI” or on-campus interviewing. This means that various firms come to campus to interview you or your classmates. Again, career services will provide you with the correct timeline and any other information and deadlines you might need to be aware of.

### III. Internships, Externships, and Clinics

Throughout your law school career, you may have the opportunity to participate in internships, externships, and clinics. So, the question is what are they and why would you take the time to do them?

An **internship** is a position usually offered as a way to gain work experience. Internships can be available in almost any setting or field, from the government to firms to nonprofits. Sometimes they pay, but frequently they may not. It depends on the type of work.

An **externship** is similar, but is usually set up through your law school. Often there is a class associated with the externship, and you have someone on campus who is in charge of supervising, or at least being a liaison with your supervisor. These are not paid and are offered for course credit.

A **clinic** is typically offered through the law school, as a course. While some law schools work with local organizations to form clinic opportunities, some law schools have clinics at the law school. This means that during “class” you meet with real clients, and work on real legal issues, under the supervision of your professor. Many schools have requirements that you complete a certain amount of clinic or externship work.

So what is important about internships, externships, and clinics? They are a spectacular way to get practical legal experience. In these work experiences, you learn a great deal about how law is actually practiced while being supervised by attorneys who share the goal of making sure you learn.

And more importantly, they are a great way to see what type of law you are interested in, and what types of law you are not interested in. For example, I entered law school very much convinced that I wanted to work for the district attorney's office, prosecuting crimes. I completed an internship with the local district attorney's office while in law school and

decided that I absolutely did not want to practice criminal law. The people were lovely, and it was a great experience, but it taught me that criminal law is not remotely what I thought it was. It's important to find these things out while you have the opportunity!

#### Exploration Exercise: Clinics and Externships



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<https://halefirstgenguide.lawbooks.cali.org/?p=50#h5p-34>

The tricky part, if you don't have the resources, is often working for free. Many internships, especially summer internships, offer a stipend or salary. However, that tends to only happen at mid-size or larger firms. If you are interested in doing government work or public interest work, there is an expectation that you will work for free. However, many schools have a Public Interest Law Association that raises money to provide stipends for law students participating in public interest internships.

## IV. Mentorships

One of the best things you can do for yourself is to find a mentor. I will be honest, I didn't find my mentor until after a few years of practice, and that's okay. My mentor has been someone that has advocated for me and opened doors for me. Every mentoring relationship is different, but the idea is to find someone that will give you unbiased and honest advice. Your mentor should motivate, inspire, and encourage you. A mentor should ideally be someone in your field; for example, my mentor is a fellow professor. This is important because while my mother will always motivate and encourage me, it's useful to be able to call up my mentor to ask her advice on whether something is a good idea since she knows and understands the world I work in. She will also be completely honest.

So how does one find a mentor? Well, it has to come naturally. Similar to networking, you are looking to forge a relationship, so it's not something that can be forced. You want to make

sure that you are comfortable with your potential mentor and that you trust them. It might also be helpful to find someone that has a similar background to you, so they understand where you are coming from. My mentor took me under her wing because I started teaching fairly young, and so had she. It can be helpful to form a connection with someone of a similar ethnic or racial background, from the same hometown, or someone who has had similar interests to you. These similarities can often mean a more comfortable connection. However, sometimes having a mentor who is from a different background can be beneficial, and can even mean they can be a better advocate. While my mentor and I share similarities in that we both started teaching as young women, she was not a first-generation student, and has many lawyers in her family. This means that she is often a bit more confident in her knowledge as well as in her advocacy on my behalf.

As you enter law school, you will start to see various opportunities to gain a mentor. Often, second and third-year students can act as mentors. You will find these students within student groups that interest you, or might be second and third years who have been teaching assistants. Maybe your law school even has a formal mentoring or “big sibling” program. If there is a formal program, make sure you take advantage and sign up. If there isn’t, again, let the relationships form naturally.

Your second source of mentors will be your professors or administrators. Similar to networking, get to know them as people and the mentoring relationship will come naturally.

Finally, you may find good mentors at your first jobs or internships. You might also look into whether local bar associations have mentoring programs. Local bar associations often make it free for students to join or offer a discount. While this can seem a bit overwhelming, it can be an incredibly beneficial way to meet or be paired up with a mentor. If it makes you feel a bit nervous, see if there are any professors or administrators that are active in the local bar associations and ask to go with them. Or, grab some friends from class and all go together! There are local bar associations dedicated to affinity groups and specialties, and they can be a great place to start.

You might also have different mentors for different lengths of time, and at different points in your career. And don’t be afraid to have multiple mentors for different reasons!

## Exploration Exercise: Networking and Membership



An interactive H5P element has been excluded from this version of the text. You can view it online here:

<https://halefirstgenguide.lawbooks.cali.org/?p=50#h5p-35>

## V. How to Talk to a Professor

We don't bite, I promise. Sure, there is a grumpy guss at every law school, or at every school in general, but by and large, most of us really want to talk to you and get to know you! I also keep talking about how great we are for networking and mentorship, so the question remains—how do you approach a professor?

First, we all have set or posted office hours. This means this is the time we WANT you to come to see us. We set aside that time expecting to do nothing but speak with students. So if your professor has office hours on Monday at noon, when the time comes, just walk into their office, no appointment needed. The downside is that they might be with another student, so you might have to wait. However, students don't always take advantage of office hours as much as we'd like, so chances are high that you can just walk right in and start talking.

If you are unable to show up during office hours, or want to make sure that you are the only student scheduled for a certain block of time, reach out via email to make an appointment. Often professors will include information on how to make appointments in their syllabus. Some might want you to just email them, while others have links to calendar or appointment software.

Some professors also stick around before or after class to answer questions, or hold group office hours or review sessions. This can be a great way to ease into getting to know your professor if one-on-one seems intimidating.

Now that you know when to approach a professor, how do you do it? Well, first and foremost,

be respectful. Call them “professor” unless they have specifically told you otherwise. This holds true for email communication as well as in-person communication. But also remember, as I’ve mentioned, they want to talk to you and help you, so keep that in mind.

You might also be wondering what to ask when you approach a professor. This depends on why you are approaching them. Above all else, remember that you don’t have to be perfect, and it’s okay if you are slightly confused or don’t know what to ask!

If you want to approach your professor about class, here are some question guidelines:

- While there is no perfect question, you want to avoid overly broad questions like “I don’t understand anything about torts.” Professors spend a great deal of time planning out their lectures, so while it’s understandable that you might feel a bit lost after class, you want to be specific about what it is you didn’t quite get.
- Ask about specific hypotheticals mentioned in class, and why they came out a certain way.
- Ask your professor if a certain fact changed in a case, would the outcome be different. This can help you determine if you have the right understanding of which facts are important and relevant.
- If you are lost on a specific concept, like strict liability, ask your professor if they wouldn’t mind giving you a different hypothetical or example from the one given in class. This might help it click a bit more.

If you want to approach your professor to get to know them or learn more about their areas of scholarship, here are some guidelines. (Note: A professor’s scholarship is the topic they tend to research and publish on. If the area of scholarship is of interest to you, you may consider asking your professor if they need a research assistant.)

- Be mindful of the time of year. The main job of a professor is making sure that you succeed as a student, so they might want to prioritize class-related questions at certain times of the semester. For example, a week before finals is not the time to ask them about their scholarship, as they will want to prioritize ensuring that students are well prepared for exams at that time and might be busy. Instead, seek them out at the beginning of the semester.
- Ask them why they chose a certain topic to teach or research.
- Ask them how they ended up as a professor—what was their path?
- Ask them about their first job out of law school.

## VI. How to Ask for a Letter of Recommendation

One of my favorite parts of my job is writing letters of recommendation for my students. However, I realize it can be daunting for the student to ask. Even though it is one of my favorite things to do, and you should never hesitate to ask, keep a few things in mind.

**Give us enough time.** The only time I've said no to a request for a letter of recommendation is when the turnaround time was not possible. I need more than 24 hours. Be respectful of the fact that the person you are asking to write a letter likely has much on their plate, and while they will be happy to write you a letter, they need the time to do so. I would suggest giving the professor as much time as possible. A good rule is to give them at least one week, if not more. If that's not possible, please state that in the email. For example, maybe you just saw the job opportunity. This happens, but be upfront about it and realize that the professor might not be able to accommodate the request.

**Give us as much information as possible about yourself and the job or opportunity.** Include a description of the job posting or position, as well as a copy of your resume and potentially your transcript. Don't be afraid to tell the writer exactly what you want—it actually helps us! The more guidance we get from you, the better. Not only does it make our job easier in writing the letter, but it's far more likely you will get the letter you want and need. You can even tell us what to highlight on your resume, or certain attributes you'd like us to focus on!

**Seek out professors who you have a connection with.** The more we know about you, the better. If you are in your first year it's less likely you've really had the opportunity to forge relationships. That's okay. When you request the letter of recommendation, talk about what you liked in the class or a time you may have chatted with or reached out to the professor. Help them to remember you.

So, how should you write an email requesting a letter? Note that I'm assuming you will be making this request via email. I always encourage my students to email me when they need things, because frankly, I'm getting older and more forgetful. Having something in my email helps me make sure the request makes it onto my to-do list. It also helps me ensure that I get the information correct, as discussed below. Even if you talk to the professor about writing one in office hours or after class, it's best to follow up in an email.

First, in the subject line, make it clear what you are asking for: use something like "Letter of Recommendation for John Smith." Start with a formal greeting such as "Dear Professor Hale." Make it immediately clear what your connection to the professor is, as well as the fact that you will be asking for a letter of recommendation. If you are in steady communication with the professor, you likely don't need to explain the connection. For example, I have a research

assistant that I email at least weekly and know very well. If they emailed me saying “Dear Professor Hale, you might remember me from being your research assistant” it might seem a bit odd. Of course, I know who they are, I’m not that old and forgetful! However, in your first year, if you are in a class of 50 to 100 people and have only had a few individual connections with the professor, it can’t hurt to say “I’m in your torts class and I recently came to your office hours to chat about strict liability.”

Then, be sure to explain the job or position you are applying for. If possible, include a link for your professor. Then explain why you want the position. Finally, tell your professor what you want them to highlight about you, and include a resume and transcript. Also, include a deadline and whether you need it electronically, physically, or sent to the employer directly.

For example, see below.

#### Sample Letter of Recommendation Request

Subject: Letter of Recommendation: John Smith

Dear Professor Hale,

I hope you are doing well. I was in your criminal law course last semester, which I enjoyed very much. You may remember that I came to your office hours at one point to ask if you could go over that homicide hypothetical, which really helped me feel more comfortable about the final exam.

I’m writing to request a letter of recommendation. I plan to apply to be a summer internship with the Cook County District Attorney’s office. I’m very passionate about criminal law and hope to one day be a prosecutor, so this position would be ideal.

Attached you will find my resume and transcript. If you notice I received an A in your criminal law class. Your feedback on the practice midterm we did indicated that I had a good grasp of criminal law, and I was hoping that you could highlight that in the letter.

You might notice from my resume that I majored in criminal justice for my undergraduate degree, which is something I’d love for you to discuss. This shows that I’ve been passionate about criminal law for a while.

Please let me know if you are willing to write this. The letter should be submitted to [tjones@ccda.gov](mailto:tjones@ccda.gov) by March 1st.

If you have any questions or need further information, please do not hesitate to ask!

Warm Regards,  
John Smith

## VII. What The Heck is a Clerkship?

I have a confession: the one regret in my legal career is not applying for a clerkship. When I first heard the term, I thought a “clerk” was like a secretary. My mother was a secretary, and sometimes called a clerk, and I didn’t want her job! I was too embarrassed to ask why people would apply for clerkships and was definitely too embarrassed to ask what they were.

Clerkships are the opportunity to work for a judge, and not in an administrative role. Judicial clerks do extensive research for their judges and often draft the judicial opinions. This makes clerkships incredibly prestigious, and a fantastic stepping-off point to any legal career.

Clerkships often last a year, though sometimes they can last two. Although each court may differ, they typically start in August or September and end in May or June of the next year. The salary is typically not great, but the prestige makes up for the lack of salary. If you can continue to live as a student, so to speak, for another year, it’s worth it.

There are federal and state clerkships, and both are valuable experiences. Each court will have its own hiring process and timeline for clerks, so yet again, I encourage you to seek out your CSO. Typically, you want to start applying the summer before your third year of law school or the fall of your third year.

### **Federal Clerkships**

Most federal judges use OSCAR to hire their clerks. It’s a website portal that facilitates the applications. From the OSCAR website: “OSCAR, the Online System for Clerkship Application and Review, is a web-based system for federal law clerk and appellate staff attorney recruitment. OSCAR’s extensive set of features allows users to easily manage every aspect of the hiring process. Using OSCAR, applicants can easily apply to federal clerkships.”<sup>4</sup>

Also according to OSCAR, the duties of a Federal Law Clerk are as follows:

The duties and functions of a federal judicial law clerk are determined by the employing judge. In most chambers, law clerks concentrate on legal research and writing. Typically, the broad range of duties assigned to a law clerk includes conducting legal research, preparing bench memos, drafting orders and opinions, proofreading the judge’s orders and opinions, verifying citations, communicating with counsel regarding case management and procedural requirements, and assisting the judge during courtroom proceedings. Some judges also may assign maintaining the chambers library, and other administrative duties to the law clerk. Because there is a myriad of tasks that may be assigned to a law clerk, the Online System for Clerkship Application



and Review (OSCAR) permits a judge to identify any particular duties that are required in the position announcement.<sup>5</sup>

Typically, to be eligible for a federal judicial clerkship, you must be in the top third of your graduating class and have some experience with law review or law journal.

### **State Clerkships**

Though it is often assumed that federal clerkships are the most prestigious, there are many opportunities to clerk at the state and local levels. In fact, these clerkships might give you more opportunities for relationship building, which might serve you further along in your career. Your professors and mentors will also likely have closer relationships with the local judges, so do not overlook these opportunities!

### **Supreme Court Clerkships**

These are the most competitive clerkships. Typically, those who clerk for a Supreme Court Justice have had at least one prior judicial clerkship. You would typically apply for this program after graduation from law school. For more information on the program, you want to check the Supreme Court's website.<sup>6</sup>

## **VIII. Conclusion**

Hopefully, you now have a better idea of how to navigate the professional legal world and feel a bit more confident in your knowledge. I cannot stress this enough, but you do not have to have it all figured out right now. Sometimes I feel like my career was a series of happy accidents that put me where I am today, and there is nothing wrong with that. Your first job out of law school might not be your ideal, and that's okay—it might lead you on a path you didn't even know you wanted. Do not assume that you have to have it all together when you graduate. Talk to lawyers, and your professors, and ask about whether they had any happy accidents in their career path. You might be surprised.

“Being a First Gen who doesn't typically like to network, it's good to notice and appreciate those professors and deans who are intentional about being of service to their students. As an African American Woman who had no idea what she was getting into, my community assisted me with externships and were supportive in my roles in BLSA as well as SBA. Additionally, my Sports Law Negotiation Team coach is what I like to call my Law School Dad and has not stopped making sure I

am doing well even after graduation. You don't have to know everyone, but make use of those who are willingly making themselves available to you. They may need you one day as well, so make sure there are at least three real and valuable relationships made and maintained throughout your law school journey.”

-Tanesha O., C/O 2021

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<sup>1</sup> This is an actual organization: <http://www.cbdg.org.br/>. The website is in Portuguese, but there is also a Wikipedia entry! [https://en.wikipedia.org/wiki/](https://en.wikipedia.org/wiki/Brazilian_Ice_Sports_Federation)

[Brazilian\\_Ice\\_Sports\\_Federation](https://en.wikipedia.org/wiki/Brazilian_Ice_Sports_Federation)

<sup>2</sup> His name is Professor Russ VerSteeg, and is author of “Sports Law: Cases and Materials” and he is a pole vaulting coach. The idea of networking is getting to know people as people, not “job connections.”

<sup>3</sup> The woman is Tania N. Shah, professor at Western State College of Law and my co-author on many bar related books. She also still practices law and has more businesses than I can count. Speaking of networking, I often send my students to her if they are interested in business law, so you never know who your professors know!

<sup>4</sup> “About Oscar.” Online System for Clerkship Application and Review. Administrative Office of the United States Courts. Accessed May 18, 2022. <https://oscar.uscourts.gov/about>.

<sup>5</sup> Id.

<sup>6</sup> <https://www.supremecourt.gov/fellows/AboutFellowships.aspx>

# 10. Conclusion

I hope this book helped you feel more prepared for law school. The important things to remember are:

1) You are not alone. There are more and more first-generation students entering law school every day.

2) Ask questions! It can feel daunting to ask questions especially as you might not want to “out” yourself as not knowing what you’re doing. But I promise you, there are people in the law school who want to help you, and who were likely first generation themselves.

In fact, I discovered that my constitutional law professor was from the Midwest, like myself, and also a first-generation student. I asked her so many questions and was in her office all of the time. She never minded, and was happy to help. I’m certain you will find someone similar at your school.

I also discuss growth mindset in the book, and how failure is a part of learning. In the Career Opportunities chapter, I refer to my career path as a series of “happy accidents.” This is because I had a bit of a rocky start, and too many rejection letters to count from firms that I thought would be a good fit. However, not getting the job of my dreams is exactly why I started tutoring on the side, and that lead to my career in academia, which I love. So, you see, failure actually put me on the right path.

Above all else, please remember that you do belong. You have been admitted to law school because of your merit and accomplishments; do not let imposter phenomenon, or anything else, make you feel otherwise.

Following this conclusion are two appendices. These are here so that you feel a little more comfortable coming into the school.

**Appendix A** is a **Law School Glossary**. This is the glossary I referenced in Chapter 1. Every field of education or activity, and in fact, every field of human endeavor, has its own language or jargon. Law school is no different. At first, it can seem a little frightening to hear faculty, staff, and other students throwing around words and phrases you have never heard. The Glossary in Appendix A is intended to be a little introduction to some of that language. Read over the Glossary now and keep it handy. You will hear most of these words and phrases during the first week of law school. And don’t worry—in a few weeks, you’ll be using these words like a pro.

**Appendix B** is a list of **Where Do I Go For Help With...** I would wish that every law student would enter law school, sail through with no issues, and graduate with high grades. That really doesn't happen. Every law student needs help with something at some point during the years spent in law school. Appendix B gives a list of the most common issues that arise during the law school years, and then gives someplace you can go to seek answers or help. Read through the list right now, and then keep it handy.

I wish you the best of luck in all of your endeavors! Now, here is some advice from a former student of mine:

"The best chance you have if you want to succeed in law school is to give yourself up to loneliness, fear nothing, and work hard. There will be times you miss out on gatherings with family and friends to brief a case or to study. There will be times the work seems like it is overwhelming. Don't give up. You are here for a reason and you have what it takes to rise to the top. All your hard work took you this far and it will take you further than you ever dream possible. Your best chapters are still being written."

-James Anthony Barracato

And finally, remember that you can break the mold!

"I was the first person in my family to go to college, and the first lawyer in my family ever. In law school, I was intimidated by my professors and fellow classmates. There was a mold I thought they all fit that I did not fit as a formerly homeless, high school dropout that had to work through night classes to get my undergraduate degree. It took a long time to realize that part of the beauty of being a first-generation law student and lawyer was that I was not constrained by a mold or a model that frankly hasn't served members of the legal profession well. Once I realized that breaking out of a mold that perpetuates systemic problems in the legal profession was a good thing, it was very freeing to see myself as making the difference I had always hoped to make."

-Afton Cavanaugh, Assistant Dean St. Mary's School of Law

# Appendix A: Law School Glossary

This is meant to be a short, not exhaustive glossary of terms or abbreviations you might encounter during your first year. This is meant to give you a very basic understanding of the word or phrase. I also recommend asking your professors (you are not the only one wondering what the word means) or investing in Black's Law Dictionary. Black's Law Dictionary can also be found [online](#), though this version may be outdated. Please check with your librarian to see if there is an online version you may use, for example, through Westlaw.

But always remember, I created this glossary because you are definitely not the only one that doesn't know the word, so when in doubt, ask.

**1L, 2L, 3L:** In undergrad, your year in school is usually referred to as freshman, sophomore, etc. In law school, we use 1L to refer to first year, 2L to second year, and 3L to third year. Your law school might have a part-time division, and in that case, some students might be referred to as 4Ls as well.

**Affirm:** To confirm a judgment on appeal, or uphold it. Meaning, the appellate court confirms that the lower court ruled “correctly.”

**Appellant:** A party who appeals a lower court's decision, usually seeking to reverse that decision. A party would do this if they lost at court.

**Appellee:** A party against whom an appeal is taken. Their role is to respond to that appeal, and they usually want to affirm (or keep) the lower court's decision.

**Appellate Court:** This is the type of court that hears appeals. This means the party that lost at the lower court level appealed to a higher court. The cases you typically read in law school are at the appellate court level.

**Bar Exam:** The bar exam, or sometimes just “the bar,” is what most lawyers must take in order to be licensed. (There are some state exceptions, but not many.) When you graduate from law school, you have a juris doctorate, but you are not a lawyer. You don't become a lawyer until you pass your jurisdiction's bar exam, and are sworn in. The bar exam is a two-day test in either July or February. Your academic support person on campus will tell you more, but you do not need to worry about it your first year. Usually you want to start thinking about which jurisdiction you will take the exam in, taking bar-related courses, and thinking about deadlines in your second year. See the chapter Family Matters, Finances, and What the Heck is The Bar?

**Black's Law Dictionary:** A legal dictionary. You should always look up legal terms using a legal dictionary versus a normal dictionary, as sometimes the terms will have different meanings. Any trustworthy legal dictionary will suffice for this, it just so happens that "Black's" is the most famous.

**Bluebook:** This is the book most legal writing courses, law firms, judges, and law journals and law reviews use for uniform citation. You might hear people talk about "bluebooking," which generally means checking citations.

**CALI:** The Center for Computer-Assisted Legal Instruction, also known as CALI, is a non-profit consortium of mostly US law schools that conducts applied research and development in the area of computer-mediated legal education. The organization is best known in law schools for their online interactive tutorials in legal subjects called CALI Lessons, several of which are referenced throughout this guide. They also have things like podcasts on various subjects. Your library will be able to tell you how to create a CALI account. At some schools, there are "CALI Awards," which are given to the student that gets the top grade in a particular class. You might hear students say they "CALI'd" a class, and that might be because they did CALI Lessons!

**Canned Brief:** Companies will sometimes create books full of "canned briefs," or briefs written by professional lawyers. Students are frequently tempted by these as a shortcut. However, it is important that you learn to read and brief cases, and avoid canned briefs.

**Casebook:** Your textbook. A compilation of cases, chosen and edited to teach a subject.

**Case Brief:** As you read cases for class, you will want to "brief" them. You will receive instruction on how to do this, likely during orientation. Essentially, it is a summary of the case, so that you can remember things like important facts, issues, and the holding when you are called on in class and when you need to study and review.

**Case Law:** The law derived from a collection of cases. Essentially, judges will write opinions, and that creates case law, or precedent. Case law can be common law, or, it can be used to explain and supplement statutory law.

**Citation:** A legal reference. In legal writing (aside from most exams) you will want to "cite" your sources. You will learn more about this in your legal writing courses. You typically use the Bluebook to determine the correct citation format.

**"Civ Pro":** This is the abbreviation typically used for the subject of civil procedure. Civil procedure is the process, or rules, of a case. So, how to file a claim, and which court has jurisdiction. Essentially, the rules of court. Typically, civil procedure courses will use FRCP, or the Federal Rules of Civil Procedure.

**Clerking:** Upon graduating from law school, you can apply to clerk for a judge. This typically involves a great deal of research and writing, though the experiences may differ slightly from judge to judge and court to court. Typically, it's a fairly prestigious honor.

**Clinic:** Law school training in which students participate in actual cases under the supervision of a practicing attorney or law professor.

**Cold Call:** Some of your professors might use “cold calling” in class. This has long been a staple of law school classes, but not every professor is the same. Essentially, it means calling on students without warning, or without looking for volunteers. So, the professor might say “Mr. Jones, what was the holding in Smith v Smith” even though you haven’t raised your hand or volunteered. Every professor runs their class in their own way, so after 1-2 classes, you’ll start to get a feel for how your professor “cold calls,” if they do so at all.

**Common Law:** The body of law derived from cases, rather than a statute.

**Conclusory:** This is often used in legal writing, and means you have left out a proper analysis. You don’t want your writing to be conclusory; you want a conclusion supported by analysis. Your legal writing professors and your academic support professors will help you with this.

**“Con Law”:** This is an abbreviation typically used for constitutional law.

**“Crim”:** This is an abbreviation typically used for criminal law.

**Defendant:** In a civil case, the defendant is the one being sued. In a criminal action, the defendant is the one who is being accused of committing a crime. You may sometimes see defendant abbreviated as Δ.

**Dissent:** A disagreement with a majority opinion, especially among judges.

**FRCP:** Federal Rules of Civil Procedure. See “Civ Pro”

**Holding:** The court’s decision on a matter of law, sometimes called a judgment or a ruling.

**Hornbook:** A book explaining an overview of a particular area of law.

**Hypo:** Short for hypothetical. Your professors will often give “hypos,” which are fictional scenarios, to help explain the law. In addition, your exams will consist of “hypos” you should answer. You might also hear others refer to “practice hypos” which is one way of preparing for exams.

**IRAC:** Issue, Rule, Analysis, Conclusion. This is the structure that we use for legal writing. Sometimes, it will be referred to as CRAC or CREAC. CRAC is Conclusion, Rule, Analysis,

Conclusion, and CREAC is Conclusion, Rule, Explanation, Analysis, Conclusion. They are all the same basic structure with very few modifications.

**“K”:** An abbreviation for contract.

**Law Review/Law Journal:** These are student-run publications. You may have an opportunity to join one your second year, which means you will be editing the articles that the publications put out. The articles are typically written by law professors around the country.

**Lexis/Westlaw:** These are the legal databases you will typically use to research the law. Your school will have representatives from each to help you navigate the database. In addition, you will learn more about them in your legal research course.

**Moot Court:** A fictitious court, usually held in a law school setting, to argue “moot,” or hypothetical, cases. These cases are usually at the appellate level.

**Motion in Limine:** A motion that an attorney will submit, prior to trial, to ask the court to exclude, or not admit, certain pieces of evidence.

**MPRE:** The Multistate Professional Responsibility Exam, or ethics exam. This is usually taken before you sit for the bar exam, and is offered in August, October, and March. It is probably best to sit for it the August before your 3<sup>rd</sup> year, or the October of your 3<sup>rd</sup> year.

**Outline:** You will hear the term “outline” during your first semester. The 2nd and 3rd-year students may offer you their outline, or you may hear talk of a “commercial outline.” An outline is simply a way of organizing the information for a particular subject or class. There is no “right” way to outline; it can be a traditional outline, a flow chart, graphs, charts, mind maps, flashcards, etc. The important part is that you are organizing, and synthesizing, the information being given to you in class.

While you can use commercial outlines, or outlines of fellow students, as a resource, do not use them in place of doing your own as it’s the process of creating your outline, however it looks, that helps you master the material.

**Petitioner:** One who appeals from a judgment.

**Plaintiff:** The plaintiff is the party that is bringing the lawsuit, or initiating the claim. You may sometimes see plaintiff abbreviated as π.

**Prosecutor:** In a criminal case, the state or federal government brings charges against the defendant. The prosecutor is the lawyer that represents the government.

**Regina:** In the United Kingdom, where much of our common law comes from, cases are



brought by “Regina” or the Queen. This is similar to a US case where a state might bring a case.

**Respondent:** The party against whom an appeal is taken; appellee.

**Reverse:** When an appellant court overturns a lower court’s decision.

**SCOTUS:** Supreme Court of the United States

**Statutory Law:** Law passed by a legislative body. This is different from common law. Examples of this are the FRCP, UCC, and more.

**Study Aid/Supplement:** A supplement is a resource designed to help you understand the law. They are not casebooks. Your library will have more information on the various types of supplements, and what they are used for. Some, like commercial outlines, help you clarify things, but they should not be a crutch or a substitute for reading and briefing yourself.

**Tort:** A civil wrong. This subject typically involves things like car accidents, and so forth.

**TWEN:** This is a web platform that some professors use in class, and it’s associated with Westlaw. They use it to collect assignments, provide course handouts, etc. Your professor will tell you if you need to use it.

**UBE:** The Uniform Bar Exam. This is the bar exam administered in over 40 states. The reason this is significant is that the UBE score is “portable,” meaning you can transfer your bar exam score to other states. Your academic support person on campus will tell you more, and it’s not something you need to worry about your first year.

**UCC:** Uniform Commercial Code. This is a set of laws governing commercial transactions and is used in subjects like sales, commercial paper, and secured transactions.

**Writ of Certiorari:** Usually associated with the U.S. Supreme Court, it is a petition to the Court for review of a lower court decision.

# Appendix B: Where Do I Go For Help With...

Part of being a first-generation student is not always realizing how things work, or where to go. First, let me stress that the people at your law school—faculty, staff, and administration—want to help you. Don't be afraid to approach them with a question.

You can also sometimes learn a great deal by making yourself familiar with your law school's website, and the various departments. Browsing the directory of faculty, staff, and administration can help put the right people on your radar. In this appendix, I use the commonly used name of the person or department, but it might vary from school to school. That's yet another reason to check your school's website.

In addition, you don't always have to go to the "right" person first. Many students come to me first for various things and I point them in the right direction. This is encouraged, and not at all a bad thing.

As an attorney, one of the many valuable skills you will bring to your clients is the willingness and ability to ask the right questions on their behalf. Competency in this area takes bravery and humility, but it also takes practice. So throughout your law school journey remember to ask for the things that you need and that will make your experience better. In the spirit of RuPaul, "If you can't advocate for yourself, how in the heck are you going to advocate for somebody else?"

## What if I'm struggling academically?

If you are struggling academically, or even if you are feeling a bit behind, you want to seek out your professor. In addition, your school might have an academic success department—sometimes called academic support, academic excellence, or academic achievement. This is the department I'm in charge of and I can promise you that we do want to help. We can't always fix everything, and we are not one-on-one tutors, but we can help you. We often have advice and resources we can provide, and many of us were first generation, so we won't think any question is too silly!

## **What if life gets in the way?**

Life often gets in the way: illness, family emergencies, life emergencies—we've seen it all. If something like this happens to you, do not hesitate to go to the dean of students. Depending on the emergency, they will be able to help you communicate with your professors, get extensions on exams or assignments, and generally help you navigate school-related things while you navigate life.

## **Where do I find help with my resume or how to prepare for an interview?**

The Career Services Office (CSO)! These are magical people that will help you with all of your future career needs. They will help you do mock interviews, edit your resume, and tell you what to expect—they'll even help you figure out what to wear. They also genuinely want you to succeed, so take their help!

## **What if I have questions about the bar exam application?**

Again, this might be your Academic Success/Excellence/Support/Achievement department, if your school has one. If your school doesn't have such a department, this will often fall onto your dean of students.

## **What if I run out of money?**

Law school can be expensive. If you are finding yourself in dire financial straits, see the dean of students. While they aren't able to just hand you more money, they may be able to assist you in finding more financial aid or loans or know of a part-time job such as a research assistant for a faculty member.

## A list of people you might encounter:

**Registrar:** This is the person, or various people, that help with registration. They will be the ones that you go to if you need help figuring out graduation requirements, how many credits you currently have, or whether you can register for a particular class. If your school keeps waitlists for registration purposes, it will be done out of this office. Some schools may often refer to this office as “student records.”

**The Library/Librarians:** Honestly, they can help with so much. A law librarian can help you get registered for Lexis/Westlaw; check out hornbooks, outlines, and other study aids; get started with research for any papers you have to write; and understand Bluebook citation. They can also help direct you to other resources, and sometimes even have things like earplugs, codes to access CALI, and in some cities, things like passes to museums.

**Career Services:** The department that will help you with all of your career needs. See above, or the chapter on career development.

**Director of Externships:** If your school has this office, this is the person in charge of externships. An externship is where you work in a legal setting for credit.

**Associate Dean of Academics:** This is the dean that sets the schedule of classes, and is typically the go-to person if you have questions about graduation requirements or credits that the registrar cannot answer.

**Associate Dean of Students/Student Affairs:** This office will help you with so many things. They typically oversee the Student Bar Association (SBA) and other student organizations and student events. They are typically in charge of things like orientation and graduation.

They are also in charge of nonstandard testing accommodations and will be the people to help you if life gets in the way. In short, they are wonderful people and you should definitely form a relationship with your dean of students.

**Academic Success:** Another group of magical people, but I’m biased. If your school has this office, they can help you if you are falling behind or feeling overwhelmed. They will often host workshops on things like reading and briefing, outlining, or exam prep during your first year.

They will know all there is to know about the Multistate Professional Responsibility Exam (MPRE). They can help you with your bar application, and will often host programs that teach you bar prep skills. They should be your go-to people on campus for almost everything!