HOW TO WRITE A CASENOTE

WORKSHOP
What is a Casenote?

- Scholarly report of a recent significant decision
- Concise analysis of an opinion
- Contains citations to related cases and important secondary authorities
Sections of a Casenote

I. Introduction
   A. Intro Paragraph
   B. Brief Background
   C. Roadmap/Scope

II. Prior Law/Perspective

III. Main Case

IV. Analysis

V. Conclusion
I. Introduction

- Begin with an engaging sentence, quote or hypothesis that will “grab” the reader’s interest
- Include a broad thumbnail sketch
- Identify basic issues and themes
- Tell us why the case is important
A. Brief Background

- BRIEF description of relevant law leading up to your topic
- Put your case in perspective
- Be specific on the trend you’re focusing on, while setting out relevant facts of your case
B. Roadmap

- Explain the structure of your casenote
- Preview the new development and the prior law, while identifying the thrust of your article
- Extending trend or breaking new ground? Clarifying? New approach?
II. Prior Law

- Legal history leading to the recent development you will discuss
- Identify important cases, statutes and secondary sources
- Try not to organize according to cases
- When discussing case law discern what’s necessary and what’s not
III. Main Case

- Identify significant facts, procedural posture and parties **in detail**
- Discuss how the case came about and its impact on prior law
- Briefly describe the majority and, if any, dissenting opinions in your case
IV. Analysis

- This is where your argument should emerge!
- Draw from a synthesis of prior law
- Explain how your position reverses, extends, or deviates from prior law
- Incorporate lower courts’ majority and dissenting opinions
- Implications & potential criticisms of your position
V. Conclusion

- What’s the big picture?
- Don’t introduce new material or arguments
- Review earlier statements in a new light
Writing the Analysis/Argument Section

• This is the most important part of the paper—Make it count!

• Why so important, well...
Types of Arguments

- The Court was wrong/right and for what reasons
- The Court did not really accomplish anything
- The Court properly applied/misapplied prior law or the statute
- What should the Court have done?
- What will the Court do? (where the Supreme Court has not yet decided the case)
Some helpful examples of strong legal writing and analysis include:


Bluebooking

- For purposes of the write-on competition, Bluebooking can count for as much as half of your total score.

- Even if you do not participate in the write-on, strong Bluebooking is crucial for the law review editing process.

- Use the Index!
Bluebookinging **Cases**: The Basics


- General: Rule 10.1 (page 79)

- 4 Basic Elements:
  - **Party Names**: Rule 10.2 (page 81)
  - **Reporter**: Rule 10.3 (page 86) and T.1
  - **Year**: Rule 10.5 (page 90)
  - **Short Cites**: Rule 10.9 (page 97)
Bluebooking **Cases**: The Basics

- **Distinguishing Party Names in Text and in Citations:**
  - **Used As Text** (Rule 10.2.1): In *United Housing Foundation, Inc. v. Forman*, the Court held Y.
  - **Full Citation in Footnotes** (Rule 10.2.2): *United Hous. Found., Inc. v. Forman*, 421 U.S. 837 (1975).
    - Remember to abbreviate according to T.6!
  - **As a Short Citation in Footnotes** (Rule 10.9): *United Hous. Found.*, 421 U.S. at 844.
Bluebooking **Cases**: The Basics

- **Short Cites (Rule 10.9)**
  - The Five Footnote Rule: If a case is cited within the five preceding footnotes, you can short cite.
  - This includes any citation in a parenthetical. However, you may not use “*Id.*” for a cite in a parenthetical.
  - An “*Id.*” may not be used for McGuane *v.* Fitzgibbons.
  - McGuane *v.* Fitzgibbons may be short cited within the next 5 footnotes.
  - However, an “*Id.*” may be used for Thompson *v.* Byers.
Bluebooking Law Review Articles

  - Rule 16.3
  - Author’s Name As It Appears in Article.
  - Title, Capitalized According to Rule 8, but Do Not Abbreviate or Omit Words.
  - The 23 Here Is the Volume Number, the 122 Here is the Page at Which the Article Begins
  - The Year in Parentheses.

- Include the “C” in Robert C. Ellickson, if the author maintained it.
- If the title was “Of Coase & Cattle,” you should keep the “&.”
- The title should appear as it appears on the article. Include the subtitle.
- Stanford Law Review abbreviated as shown on T.13 [page 367].
- Page 633 is the pincite to the article.
Bluebooking Newspapers

  - Rule 16.5
  - Author’s Name, as It Appears on the Article.
  - Article Title as it appears in italics.
  - Tribune shortened to Trib. according to T.13 [page 369].
  - Date abbreviated according to T.12 [page 348].
  - The start page of the article, with an “at” in front.
  - Do not pincite.
Bluebooking Internet Sources

- **Rule 18.2**
- **Article** only available on the internet:
- **Blogs**: include the name of the blog, URL, and date & time stamp
Bluebooking: Support Signals

• [No signal] if cited authority:
  ○ Directly states proposition;
  ○ IDs source of quotation; or
  ○ IDs authority referred to in the text.

• *E.g.*, if cited authority states proposition and other authorities do as well, but citation to them is not helpful.

• *Accord* when two or more sources state or support a proposition, but the text only quotes/refers to one; the other sources are introduced by accord.
Bluebooking: Signals

- **See** when cited authority supports the proposition.
  - Used instead of [no signal] when the proposition is not directly stated by the cited authority, but obviously follows from it.
  - Use *see also* when cited authority constitutes additional source material supporting the proposition.

- **Cf.**, cited authority supports a proposition different from the main proposition, but sufficiently analogous to lend support. Literally, *cf.* means “compare”
  - Parenthetical explanations are recommended to clarify relevance to the reader.
Bluebooking: Signals Indicating Contradiction

- **Contra** when cited authority directly states the contrary of the proposition.

- **But see** when cited authority clearly supports a proposition contrary to the main proposition.

- **But cf.**, when cited authority supports a proposition analogous to the contrary of the main proposition.
  - Explanatory parenthetical strongly recommended.
Bluebooking: **Signals Indicating Background & Useful Comparisons**

- *See generally*, when cited authority presents helpful background material related to the proposition.
  - Explanatory parenthetical is encouraged.

- *Compare X and Y with Z.*
  - Comparison of the authorities will offer support or illustrate the proposition. Explanatory parenthetical following each authority is recommended.
Use “supra” to refer back to material that has already been fully cited (unless “id.” is appropriate or “supra” is inappropriate for the authority).

- “Supra” maybe used to refer to authorities such as legislative hearings; books; pamphlets; reports; unpublished materials; treaties; and directives of international organizations.

- “Supra” may not be used to refer to authorities such as cases, statutes, constitutions, restatements, model codes, or regulations, except in extraordinary circumstances, such as when the name of the authority is extremely long.

- “Supra” form generally consists of the last name of the author of the work, followed by a comma, the word “supra” and the footnote in which the full citation can be found.
  
  - Indicate any particular manner in which the subsequent citation differs from the former. Use pincites.

- Example: Williams, supra note 18, at 6.
Bluebooking: *Infra*

- Use “*infra*” to refer to material that appears **later in the piece**.

- **Examples:**
  - *See* discussion *infra* Parts II.B.2, III.C.1.
  - *See* *infra* pp. 106-07.
  - *See* *infra* p. 50 and note 100.
Surviving the Competition

**Time Management**
- Enormous amount of material – read it all?
- Outline
- Leave some time to revise
- BUDGET TIME FOR BLUEBOOKING!

**Stress Management**
- Exercise, Get sleep, Eat right!
QUESTIONS?

ASK AWAY...