Study Guide and Workbook to Accompany

INTRODUCTION TO PARALEGALISM

Perspectives, Problems, and Skills

Seventh Edition

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PART I

CHAPTER REVIEW QUESTIONS
How to Study Law

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide.

How to Study 1. Why must your legal education be a lifelong endeavor?

How to Study 2. Define substantive law.

How to Study 3. Define procedural law.

How to Study 4. Give examples of legal skills.

How to Study 5. Describe several inaccurate portrayals of the law in the media.

How to Study 6. Since you cannot add hours to the clock, how can you increase the amount of available study time?

How to Study 7. What is active learning?

How to Study 8. You cannot function in a law office without a grasp of the basics of ___________, ___________, and composition.

How to Study 9. An easy way to obtain grammar help on the Internet is to type ___________ ___________ in any major search engine.

How to Study 10. A __________ formula may help you cut down the length of your sentences.

How to Study 11. Use __________ __________ skills to help obtain an understanding of class material that is difficult.

How to Study 12. What is one of the most sophisticated questions an attorney or paralegal can ask?
How to Study 13. Name five places where you can try to obtain definitions of words you are studying.

How to Study 14. The study of law is in large measure an examination of __________ that is identified, dissected, and manipulated.

How to Study 15. Give six examples of where paralegals may need note-taking skills.

How to Study 16. Give the abbreviations for the following words:
- burden of proof
- common law
- tort
- owner
- statute of limitations
- contract
- third party

How to Study 17. When receiving an assignment, what should you include in your instructions notebook, diary, or journal?

How to Study 18. For each assignment, ask for a __________ of ________ and a __________ of ________.

How to Study 19. Where can you find a model to use as a guide for what you are asked to do?

How to Study 20. Try to obtain __________ on an assignment before it is due.

How to Study 21. Why are employee evaluations often unhelpful or not given?

How to Study 22. How can you overcome these difficulties in order to receive meaningful evaluations?
Chapter 1: Introduction to a New Career in Law

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide.

1.1. How many lawsuits are filed every year?

1.2. Name the five major players in the development of paralegalism.

1.3. What is CLE?

1.4. What do the following abbreviations mean?
   (a) NFPA
   (b) NALA
   (c) SCOP
   (d) NALS
   (e) AAPI
   (f) IPMA
   (g) ALA

1.5. What is the World Wide Web address of:
   (a) NFPA
   (b) NALA
   (c) IPMA

1.6. What is the name of the primary certification examinations of NFPA and NALA? Which exam is entry-level and which is advanced?
   (a) NFPA
   (b) NALA

1.7. Name fourteen categories of paralegal associations.

1.8. Why is there no uniformity in the country on the use of titles for this career in law?
1.9. What are the two broad categories of paralegals?

1.10. What are the two main categories of independent contractors in the field. Of the two, which is the larger and more controversial category?

1.11. Are the titles paralegal and legal assistant synonymous?

1.12. Define:
   (a) conflicts specialist
   (b) depo summarizer
   (c) transactional paralegal
   (d) nurse paralegal

1.13. Under what two circumstances might you find an attorney working as a paralegal?

1.14. What are some of the titles used by independent contractors who sell their services to attorneys?

1.15. What are some of the titles used by independent contractors who sell their services to the public without attorney supervision?

1.16. Define independent paralegal.

1.17. Name three sources of controversy over independent contractors who sell their services to the public without attorney supervision.

1.18. Name six entities that have written definitions of a paralegal. Which are the most important?

1.19. Name three common characteristics of paralegal definitions in most states?
1.20. What is substantive legal work?

1.21. What is a major requirement for using the titles paralegal and legal assistant in California?

1.22. Distinguish between hourly fees and contingent fees.

1.23. Distinguish between the American rule and the English rule on fees.

1.24. What is a statutory-fee case?

1.25. The process of forcing one party to pay another's attorney fees and costs in litigation is called fee _________.

1.26. What is the method of calculating attorney fees to the winning party in a statutory-fee case?

1.27. What are paralegal fees and who receives them?

1.28. Give an example of what a court might require an attorney to demonstrate in order to receive paralegal fees.

1.29. What are some of the reasons courts have reduced or disallowed fees in statutory-fee cases?

1.30. Missouri v. Jenkins held that when paralegal fees must be paid by the losing side, they are calculated by the ________ rate for paralegals.

1.31. In an important statement in Missouri v. Jenkins, the Court said: “Of course, purely ________ or ________ tasks should not be billed at a paralegal rate, regardless of who performs them.”

1.32. After Missouri v. Jenkins, paralegal fees are to be calculated at the prevailing market rate in every case. True or false? Explain.
1.33. Name the six categories of job titles proposed by IPLA for a large law office.

1.34. What factors influence a paralegal's salary in addition to his or her competence?

1.35. Define leveraging.

1.36. The requirement to bill a minimum number of hours is called a __________ __________ __________.

1.37. When a law firm bills for paralegal time, the paralegal becomes a __________ __________ in the firm, as opposed to simply being part of the firm's overhead.

1.38. Under the Rule of Three, how much does a firm have to charge clients for paralegal time if the firm wants $40,000 in profit from a paralegal who makes $30,000 a year and bills 1,200 hours a year?

1.39. What are some of the factors that can affect the profitability of paralegals to a firm and offset the Rule of Three?

1.40. Name some tasks performed by paralegals that are nonbillable.

1.41. What is a realization rate?

1.42. What kinds of bar association committees have extensively promoted paralegals?

1.43. In England: (a) __________ handle the bulk of litigation in the higher courts; (b) __________ handle the day-to-day problems of the public; and (c) __________ __________ were once the equivalent of the American paralegal.

1.44. What dangers does a paralegal student face when friends and relatives find out he or she is studying law?
Chapter 2: Paralegal Employment

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide.

2.1. Most paralegals today work in _________ law firms.

2.2. Name eight major settings where paralegals work.

2.3. The larger the law firm, the more likely a paralegal will find variety in his or her work. True or false? Explain.

2.4. Who is the one client of attorneys and paralegals who works in the law department of a corporation?

2.5. List four kinds of government offices in which paralegals might work.

2.6. What is a paralegal specialist?

2.7. By definition, a paralegal specialist in the federal government cannot exercise discretion and independent judgment. True or false? Explain.

2.8. Name several law-related occupations filled by nonattorneys in the federal government.

2.9. Give the title of a paralegal position in state government in your state.

2.10. What is the main source of income of a legal service office?

2.11. What is an IOLTA program?

2.12. Name some of the duties of a public benefits paralegal in a legal service office.
2.13. An individual who does not have sufficient funds to purchase services such as legal services is _________.

2.14. What are pro bono services?

2.15. Give examples of special interest groups or associations that might use or employ paralegals.

2.16. The system by which members of a group pay for legal services before any legal problems arise is called _________. It is a form of _________ insurance.

2.17. Give three titles for government attorneys in criminal cases.

2.18. If a defendant in a criminal case is indigent, how can counsel be provided?

2.19. Name two national associations that have promoted the use of paralegals in criminal law.

2.20. What is a freelance paralegal?

2.21. What is outsourcing?

2.22. Give four examples of work performed by service companies or consulting firms.

2.23. What is a legal nurse consultant (LNC)?

2.24. Name the paralegal specialty in which the paralegal would be most likely to perform the following tasks:
   Collect facts on the seaworthiness of a vessel.
   Help a radio station apply for a license.
   Draft minutes of a board-of-directors meeting.
   Research blue sky requirements.
   Gather facts on eligibility for diversion.
Draft a Keogh plan.
Research questions on water pollution.
Collect the assets of a decedent.
Help a foreigner become a citizen.
Investigate infringement of a trademark.
Arrange for a closing.
Handle a claim due to injury on the job.

2.25. A paralegal who helps a law firm determine whether conflicts of interest exist is called a ___________.

2.26. A paralegal who works in the area of oil and gas law is called a ___________ ___________ or ___________.

2.27. Define public benefits law.

2.28. In tort cases, PI refers to ___________.

2.29. Begin looking for work when you know what kind of paralegal work you want to do. True or false? Explain.

2.30. What is a job bank?

2.31. Name the newsletter or journal of (a) the National Federation of Paralegal Associations, (b) the National Association of Legal Assistants, and (c) NALS.

2.32. What is an informational interview? What is it not?

2.33. Define networking.

2.34. For what reason should you approach an attorney about paralegal employment even if you know the attorney is not hiring paralegals?
2.35. (a) What is the name of the directory published by the National Association of Law Placement? (b) Where can you find it?

2.36. Name nine different kinds of attorneys with whom you might have direct or indirect contact.

2.37. Name some headings in newspaper want ads that you might check.

2.38. A want ad that does not give the name of the prospective employer is called a ________ ad.

2.39. Under what circumstances should you call a firm that has placed an ad for a secretary even though you do not want to become a secretary?

2.40. What is a staffing agency?

2.41. Name two national directories of attorneys and give the Internet address of each.

2.42. In what four ways can the Internet be used to find a job?

2.43. One comprehensive résumé should be adequate for all purposes. True or false? Explain.

2.44. Explain why a résumé is an advocacy document.

2.45. All factual data about you on your résumé should be ________ if checked.

2.46. You should state a career objective on a résumé solely in terms of what you want to do with your training. True or false? Explain.

2.47. List prior education and work experience in chronological order on the résumé. True or false? Explain.

2.48. When you cover prior employment experience on your résumé, give prominence to specific duties and skills that are directly ________ to the position you are seeking.
2.49. On the résumé, avoid weak verbs and phrases such as “involved in” or “was related to.” Give examples of action verbs that are preferred.

2.50. If a résumé said that you “designed systems, drafted complaints, and enjoy computer work,” the résumé would have violated the grammatical rule on ____________.

2.51. When might a functional résumé be preferable to a chronological résumé?

2.52. List some of the information you should try to obtain about an office through background research.

2.53. Find out if the office (or individuals within it) have written any ____________ about any aspect of the office.

2.54. What should a cover letter contain?

2.55. Name five kinds of writing samples you could generate on your own.

2.56. Name six categories of people who might conduct a job interview.

2.57. Name the six categories of job interview questions.

2.58. What should you bring with you to a job interview?

2.59. Explain how a paralegal can avoid contaminating a law firm where he or she is considering employment.

2.60. Name six items that should be included in a follow-up letter.

2.61. List eight characteristics of a writing sample.

2.62. One way to ensure that a writing sample does not breach confidentiality is to ____________ any client-identifying information in it.
Chapter 3: On-the-Job Realities: Assertiveness Training for Paralegals

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide.

3.1. What percentage of a forty-hour week is wasted because of poor communication according to a recent study?

3.2. List six factors that can cause a communications breakdown.

3.3. Paralegal frustration on the job is in large measure due to ________________ about the career in general and about a particular job.

3.4. Conservative law offices rarely change. True or false? Explain.

3.5. What is WIP?


3.7. Why do some paralegals resist the idea of selling themselves? What dangers do such paralegals face?

3.8. Describe an effective paralegal evaluation form. Ideally, how should such a form be designed and what should it accomplish?

3.9. In addition to regularly scheduled evaluations, ask for a ________________ at the conclusion of major tasks.

3.10. What is a pre-evaluation memo?

3.11. After an evaluation, set _______________ goals in anticipation of the next evaluation.

3.12. List three characteristics of some attorneys that can make them difficult to work with in a team.

3.13. A person is ___________ if he or she never complains and refuses to sell him or herself.

3.14. An _______________ person lets people know his or her needs. When he or she complains, it is done forcefully, but diplomatically.
3.15. A person's __________ rate is the hourly rate that a law office actually collects from the billable hours submitted by an attorney or paralegal.

3.16. What is flextime?

3.17. What is the value of a daily diary or journal?

3.18. What five categories of documents and data should you keep in your career development file?

3.19. What is CLE?

3.20. List five factors that you consider most important in assessing the effectiveness of a supervisor.

3.21. List ways that a paralegal can build a good working relationship with a secretary.

3.22. What is the new name of the National Association of Legal Secretaries?

3.23. Describe the two kinds of sexual harassment.

3.24. What is a system?

3.25. What are the five steps of designing a law office system?

3.26. Give some reasons why a law office system can be ineffective.

3.27. What is the value of paralegal listservs?

3.28. Define networking.

3.29. Describe some techniques of networking.
Chapter 4: The Regulation of Paralegals

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide.

4.1. Name six ways that paralegals could be regulated.

4.2. What is accreditation?

4.3. Define regulation.

4.4. Paralegals can be accredited to perform functions that attorneys once performed. True or false? Explain.

4.5. List three criteria commonly imposed as a condition of certification.

4.6. When certification comes from a school, some prefer to say that the person has been _________.

4.7. Define code.

4.8. Define licensure.

4.9. Define limited or specialty licensure.

4.10. Define registration or enrollment.

4.11. It is a _________ in many states to violate the law on the unauthorized practice of law.

4.12. Name seven tests that different courts have used to define the practice of law.

4.13. In defining the practice of law, what is the professional judgment test?
4.14. In defining the practice of law, what is the general public/personal relationship test?

4.15. In defining the practice of law, what is the complex/difficult question test?

4.16. In defining the practice of law, what is the important rights/public protection test?

4.17. In defining the practice of law, what is the traditional areas test?

4.18. In defining the practice of law, what is the commonly understood test?

4.19. In defining the practice of law, what is the incidentals test?

4.20. What is the essence of professional judgment?

4.21. Distinguish between attorney in fact and power of attorney.

4.22. Name the three major kinds of activities in the practice of law.

4.23. A person who represents him or herself in court is obviously practicing law. True or false? Explain.

4.24. What is the difference between giving legal information and giving legal advice?

4.25. Is a paralegal practicing law when he or she goes to a land records office, traces the title to a parcel of land, and draws conclusions on the legal validity of the title? Explain.

4.26. Self-employed and unsupervised paralegals are not engaged in the illegal practice of law when they sell legal forms and type them for someone. True or false? Explain.

4.27. Jones is a nonlawyer. He sells videotapes on how citizens can represent themselves in court. The tapes describe what the law is and how to use the law in court. The tapes are sent to buyers through the mail. Jones is practicing law illegally. True or false? Explain.
4.28. Why was Rosemary Furman prosecuted?

4.29. There are bar associations that have negotiated a treaty or ____________ of ____________ with groups such as claims adjusters and real estate agents to work out boundary lines concerning the practice of law.

4.30. What U.S. Supreme Court opinion held that the antitrust laws apply to attorneys, and that minimum fee schedules violate these laws?

4.31. What definition of the practice of law did the American Bar Association propose and ultimately withdraw because of opposition by the Justice Department and Federal Trade Commission?

4.32. Paralegals cannot represent clients in any court. True or false? Explain.

4.33. In a few states, it is not the illegal practice of law for paralegals to answer court calls. True or false? Explain.

4.34. What is an adversary system?

4.35. What did Chief Justice Rehnquist mean when he said that the role of the lawyer is not to make sure that the truth is ascertained?

4.36. Under Johnson v. Avery, (a) when must a prison allow one inmate to give legal assistance to another inmate in the prison, and (b) can this assistance include representing another inmate in court?

4.37. In what way can the opinion of Justice Douglas in Johnson be used to support the view that nonattorneys should be allowed to represent citizens outside of prison who are not being represented by attorneys?

4.38. Some administrative agencies authorize paralegals to represent clients before the agencies. True or false? Explain.

4.39. The federal ____________ ____________ provides that a person who must appear before an agency is entitled to be represented and advised by an attorney, or by other qualified representative, if permitted by the agency.

4.40. Give the title of the nonattorneys authorized to practice before the U.S. Patent and Trademark Office and the Internal Revenue Service.
4.41. Attorneys and paralegals can represent their own clients before the Social Security Administration and both can charge client fees. In what respect are attorneys and paralegals treated differently?

4.42. What opinion of the U.S. Supreme Court held that a state bar association cannot prevent a nonattorney from practicing law before a federal agency when such activity is authorized by the agency?

4.43. What clause of the U.S. Constitution was used by the Court to support the conclusion stated above in question 4.42?

4.44. What are the two main reasons an occupation may want to be licensed?

4.45. Distinguish between:
(a) licensure
(b) certification

4.46. What is the main reason many oppose broad-based licensing for traditional paralegals?

4.47. Why did New Jersey reject broad-based licensing in 1999?

4.48. What are the requirements for using the paralegal or legal assistant in California?

4.49. Why did the California Independent Paralegal Association change its name to the California Association of Legal Document Assistants?

4.50. The ABA once supported limited licensing for paralegals. True or false? Explain.

4.51. How did the ABA Commission on Nonlawyer Practice define:
(a) self-represented person
(b) document preparer
(c) paralegal
(d) legal technician
4.52. A person acts pro se or in properia persona (pro per) when that person ________.

4.53. What is the function of the Practice of Law Board in Washington State?

4.54. State the duties of the Limited Practice Officer (LPO) in Washington State.

4.55. Why has NALA opposed proposals for limited licensing?

4.56. What does NFPA call the license at each level of its two-tiered licensing scheme?

4.57. Name two categories of independent contractors in California and one in every state who are not allowed to call themselves paralegals but who can provide assistance to the public without attorney supervision.

4.58. List nine reforms in the practice of law.

4.59. An attorney or paralegal who donates free time and services is engaged in ________ ________ work.

4.60. What is a prepaid legal services program?

4.61. When paralegals can join a bar association, what membership categories have different associations used?

4.62. List four national certification programs for paralegals.

4.63. Which of the national certifications are entry-level?

4.64. Of the four exams mentioned in questions 4.51 and 4.52, which one or ones are entry level?

4.65. All four national certification programs require passage of an examination. True or false? Explain.
4.66. In what states are the following state-specific certification exams given:

(a) CFLA
(b) LCP
(c) CAS
(d) Board Certified Legal Assistant
(e) NCCP
(f) DCP
(g) OSBA Certified Paralegal

4.67. Of the certification exams mentioned in questions 4.62 and 4.66, which one or ones are required for employment?

4.68. The ABA favors entry level-certification of paralegals. True or false? Explain.

4.69. Which unit of the U.S. Department of Labor administers the Fair Labor Standards Act?

4.70. The U.S. Department of Labor says that paralegals are exempt under the Fair Labor Standards Act and hence are not entitled to overtime compensation. True or false? Explain.

4.71. Which of the following factors do not determine whether a paralegal is exempt and hence not entitled to overtime.

(a) the paralegal's title
(b) whether the office calls its paralegals “professionals”
(c) whether the paralegal obtains advance approval to work overtime

4.72. What are the three white-collar exemptions under the FSLA?

4.73. Define tort.
4.74. A paralegal is ________ liable for the torts he or she commits. Under the doctrine of ________ superior, employers can be ________ liable for paralegal torts committed within the ________ of the paralegal’s employment.

4.75. If a paralegal is negligent on the job, the client injured by this negligence can sue only the paralegal’s boss. True or false? Explain.

4.76. Give an example of an intentional tort by a paralegal that would be within the scope of employment so as to make the paralegal and the employing law firm liable for the intentional tort.

4.77. What is the test used for determining whether an attorney is negligent?

4.78. What kind of wrongdoing have paralegals most often been accused of committing?

4.79. Distinguish between malicious prosecution and abuse of process.

4.80. What is meant by going bare?

4.81. Name the two kinds of malpractice insurance policies.

4.82. Which of the two malpractice insurance policies do insurance companies favor, and why?

4.83. Paralegals can always assume that they are covered under the malpractice policy of their employing attorneys. True or false? Explain.
Chapter 5: Attorney Ethics and Paralegal Ethics

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide.

5.1. Define ethics.

5.2. All ethical rules are enforced by meaningful sanctions. True or false? Explain.

5.3. Meaningful sanctions are used to enforce the ethical codes of paralegal associations. True or false? Explain.

5.4. List four common rationalizations or excuses for unethical conduct.

5.5. Give examples of a national, a state, a local, and a specialty bar association.

5.6. If a bar association is __________, then membership is required as a condition of practicing law in the state.

5.7. The American Bar Association regulates the ethical conduct of attorneys. True or false? Explain.

5.8. What is the relationship between the ABA Model Code of Professional Responsibility and the ABA Model Rules of Professional Conduct?

5.9. What is the relationship between the ABA Model Rules, and state ethical codes?

5.10. Define DR and EC within the ABA Model Code.

5.11. List four possible sanctions that can be imposed on unethical attorneys.

5.12. In what sense do the ethical rules governing attorneys apply to paralegals?

5.13. What is an MDP?
5.14. Name the paralegal ethical code(s) published by: ABA, NFPA, NALA, and NALS.

5.15. Define ethical competence.

5.16. Define clinical education and CLE.

5.17. Attorney incompetence can lead to what two charges against the attorney?

5.18. What is the ethical danger in working for a busy attorney who has a great deal of confidence in a paralegal's ability?

5.19. What is an attorney's ethical obligation on diligence and unwarranted delay?

5.20. Attorney conduct that does not harm a client cannot be the basis of an ethical violation. True or false? Explain.

5.21. List four factors that help determine the reasonableness of a fee.

5.22. The contract in which the client hires the attorney is called a ____________.

5.23. Give an example of illegal price fixing by attorneys.

5.24. Contingent fees are unethical in criminal cases. When are they unethical in family law cases?

5.25. What is fee splitting and when is it unethical?

5.26. What is a forwarding fee?

5.27. What is a fee cap?
5.28. Law firms generate their resources from client fees. It is not improper for a paralegal to be paid out of these fees so long as the paralegal is not given a portion of a fee paid by a __________ client.

5.29. Can paralegals be compensated for referring business to an attorney?

5.30. Give an example of double billing.

5.31. Padding time sheets is __________.

5.32. Distinguish between task padding and time padding.

5.33. What is block billing?

5.34. What is a billable hours quota?

5.35. State the two holdings of Brown v. Hammond.

5.36. What is a client security fund?

5.37. List several examples of wrongdoing by a paralegal that could lead to court action against the paralegal.

5.38. A clause in a document in which you say you witnessed someone do something to or in the document is an __________ clause.

5.39. Define insider trading.

5.40. Define malicious prosecution, abuse of process, and spoliation.

5.41. Our legal system is an adversarial system. What does this mean?

5.42. State the two tests to determine whether an attorney is asserting a frivolous position on behalf of a client.
5.43. What are the obligations of an attorney under Rule 11 of the Federal Rules of Civil Procedure?

5.44. What is a fiduciary?

5.45. Define the unethical commingling of funds.

5.46. What is a client trust account?

5.47. Give two meanings of retainer.

5.48. (a) When must an attorney disclose a material fact to a court or other tribunal? (b) When must an attorney disclose a law to a court or other tribunal that is against the position of the attorney’s own client?

5.49. List four situations when an attorney must withdraw from a case.

5.50. What are the following letters called:

(a) A letter telling the client the attorney will no longer be representing the client. (b) A letter telling a prospective client the attorney will not represent him/her.

5.51. One of the conditions under which an attorney can reveal confidential information is when the client consents. Name another.

5.52. The ethical duty of nondisclosure applies solely to client secrets or to damaging information about the client. True or false? Explain.

5.53. (a) The attorney-client privilege is an _________ rule on when an attorney (and the attorney’s employees) can refuse to disclose information about a client.

5.54. What communications of a client are protected by the attorney-client privilege?

5.55. Compare what is protected by the ethical duty of confidentiality and the attorney-client privilege.
5.56. When we say that a document or other evidence is discoverable, what do we mean?

5.57. What is the work-product rule?

5.58. You might carelessly cause the ________ of a client’s attorney-client privilege if you carelessly or inadvertently allow someone to overhear your conversation about the client.

5.59. How can metadata compromise confidentiality?

5.60. A ________ document is one that has been edited or prepared for publication or release by deleting, altering, or blocking out text that you do not want disclosed.

5.61. Define conflict of interest.

5.62. What are the three conditions making it ethical for an attorney to enter a business transaction with a client?

5.63. It can be ethical for an attorney to lend his or her client ________ expenses.

5.64. Unless the attorney is related to a client, the attorney cannot prepare a document that makes a substantial gift to the attorney or to the family of the attorney. True or false? Explain.

5.65. Define bias and disinterested.

5.66. When could a paralegal’s personal feelings about a case create a conflict of interest?

5.67. If there are ________ ________ between two parties, it is usually a conflict of interest for an attorney to represent both.

5.68. When is it unethical for an attorney in a current case to oppose a person who was once a client of the attorney in an earlier case?

5.69. If one attorney in a law firm is tainted or contaminated because he or she has a conflict of interest, there can be an ________ disqualification of the entire firm because of the tainted or contaminated attorney.
5.70. What is the purpose of a Chinese Wall?

5.71. List five screening techniques of a Chinese Wall.

5.72. When a Chinese Wall is built around a tainted employee, the latter is called a __________ employee.

5.73. When a law office is considering a lateral hire, it should do a __________ __________ on him or her to avoid imputed disqualification.

5.74. How can a paralegal cause the imputed disqualification of a law firm?

5.75. Why are freelance paralegals more likely to cause the imputed disqualification of a law firm than other paralegals?

5.76. A confidential list of every client and matter you worked on in any law office from the beginning of your legal career to the present time that can be used to help determine whether any of your future work might create a conflict of interest is called a __________ list.

5.77. What is the anticontact rule?

5.78. Attorneys can solicit prospective clients. True or false? Explain.

5.79. What is a runner?

5.80. Give three requirements for advertising to be ethical.

5.81. What ethical danger exists when an attorney has a Web site?

5.82. When must one attorney report another?

5.83. Attorneys who have committed no ethical impropriety can still be unethical if they appear to have committed such improprieties. True or false? Explain.
5.84. Under EC 3–6 of the ABA Model Code of Professional Responsibility, what are the three conditions for proper attorney delegation to nonattorneys?

5.85. According to ABA Formal Opinion 316, name the three things an attorney must not ask a nonattorney to do.

5.86. Under Rule 5.3 of the ABA Model Rules, what are the three categories of attorneys who have ethical duties concerning nonattorneys?

5.87. A attorney who supervises a paralegal must make reasonable efforts to ensure that the paralegal's conduct is compatible with the ___________ ___________ of an attorney.

5.88. Why is it unethical for a paralegal to use the word “associate” as part of a job title?

5.89. When a state allows a suspended or disbarred attorney to be a paralegal, what danger exists?

5.90. What is the clearest way for a paralegal to communicate his or her nonattorney status?

5.91. Paralegal business cards cannot be used to ___________ ___________ for an attorney.

5.92. What ethical dangers exist when nonattorneys sign letters on attorney stationery?

5.93. Define the practice of law.

5.94. List two areas where a paralegal can give legal advice.

5.95. Paralegals can draft legal documents, assist at closings, and conduct depositions. True or false? Explain.

5.96. The opposite of “shoulder” supervision is ___________ supervision.

5.97. An attorney's ethical duty of supervision may be most difficult to fulfill with respect to what category of paralegals? Explain why.
Chapter 6: Introduction to the Legal System

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide.

6.1. Name the three levels of government.

6.2. What do we call the division of powers among the federal and state governments?

6.3. Name the three branches of government and the function of each.

6.4. Define public policy.

6.5. Distinguish between primary and secondary authority.

6.6. The words “opinion” and “statute” are often used interchangeably. True or false? Explain.

6.7. Name two methods by which statutes can be created in many states.

6.8. Define:

(a) constitution

(b) administrative regulation

6.9. An ___________ is an administrative agency’s resolution of a controversy (following a hearing) involving the application of the regulations, statutes, or executive orders that govern the agency.

6.10. A treatise is an international agreement between two or more countries. True or false? Explain.

6.11. A city council will pass laws called __________.

6.12. Opinions of the attorney general contain __________ __________ given to __________.

6.13. Another name for administrative regulation is __________ __________.

6.14. The document that contains a statute is an __________.
6.15. An executive order is issued by the __________ __________.

6.16. What is the purpose of the checks and balances written into the U.S. Constitution?

6.17. The power of judicial __________ allows the courts to determine whether the legislature has passed statutes that violate the constitution.

6.18. Give four meanings of the phrase, common law.

6.19. What do we call a statute that has changed the common law?

6.20. Our judicial system is __________ in the sense that we resolve legal disputes by having the parties (alone or through their advocates) argue their conflicting positions before a neutral decision maker.

6.21. Distinguish between a constitutional court and a legislative court.

6.22. What is stare decisis?


6.25. The jurisdiction a court need to resolve a legal dispute over a thing or res located within the territory over which the court has authority is called __________ __________ jurisdiction.

6.26. Briefly define the following six kinds of subject matter jurisdiction.

(a) limited jurisdiction
(b) general jurisdiction
(c) exclusive jurisdiction
(d) concurrent jurisdiction
(e) original jurisdiction
(f) appellate jurisdiction
6.27. Define:
(a) a state question
(b) a federal question

6.28. Below you will find a list of state courts. Give alternative names by which these courts are sometimes identified:
(a) supreme court
(b) superior court
(c) probate court

6.29. Below the trial courts of general jurisdiction there are _________ courts in many states.

6.30. Appellate attorneys submit _________ _________ to the appeals court stating their arguments on why the court should affirm (approve), reverse, or otherwise modify what a lower court has done.

6.31. What is an appellate panel?

6.32. What happens when a case is heard en banc?

6.33. If there is more than one court of appeals, the first level is sometimes called the _________ _________ court.

6.34. What is the name of the basic federal court at the trial level?

6.35. What is the name of the main intermediate appellate court in the federal system?

6.36. Name the federal court of final appeals.

6.37. Define administrative agency.

6.38. List the three main kinds of administrative agencies.
6.39. What is a government corporation?

6.40. Agencies with rule-making functions act like the legislature. The rules and regulations written by the agencies are referred to as __________.

6.41. The phrase __________ means the process by which agencies act like courts in resolving disputes.

6.42. Give three titles of individuals who preside over administrative hearings that lead to administrative decisions.

6.43. What is meant by exhausting administrative remedies?

6.44. What is the APA?

6.45. Distinguish between bicameral and unicameral.

6.46. Distinguish between initiative and referendum.

6.47. List the six main stages of enacting legislation.

6.48. What is the legislative history of a statute?

6.49. What is the function of the National Conference of Commissioners on Uniform State Laws?

6.50. How can a bill the president has vetoed still become law?

6.51. What is a pocket veto?

6.52. Distinguish between an engrossed bill and an enrolled bill.
Chapter 7: Introduction to Legal Analysis

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide.

7.1. Define legal analysis.

7.2. What is the basic structure of legal analysis?

7.3. What does IRAC stand for and what is its function?

7.4. What is a memorandum of law?

7.5. Define element of a rule.

7.6. Give three reasons rules are sometimes difficult to break into elements.

7.7. What is a cause of action?

7.8. List seven benefits of breaking rules into their elements.

7.9. Once you have identified the element in contention, you have the basis of a legal ____________.

7.10. When is an element in contention?

7.11. What are the two components of a comprehensive statement of an issue?

7.12. What is a dispute called when it is over the truth or falsity of an alleged fact?

7.13. Ambiguous language within an element in contention can often be defined ____________ or ____________.
7.14 What is the distinction between an element and a factor?

7.15. Define:
(a) brief of a court opinion
(b) trial brief
(c) appellate brief

7.16. Define:
(a) appellant
(b) appellee
(c) respondent

7.17. The calendar number of a case is its ___________ number.

7.18. When the equivalent of an appellate brief is filed in a trial court, what is it often called?

7.19. Name two major systems for checking the subsequent history of an opinion.

7.20. What is a citator?

7.21. What is the name of the one paragraph summary of an opinion often placed at the beginning of the opinion?

7.22. Define headnote.

7.23. Name two places where headnotes are printed.

7.24. What does a key number consist of and what is its function?

7.25. What are per curiam and memorandum opinions?
7.26. What is a key fact?

7.27. What does a court do when it construes a statute?

7.28. Stare decisis means that a court should be reluctant to reject __________.

7.29. What happens when an appellate court remands a case?

7.30. What is res judicata?

7.31. Define dictum.

7.32. Distinguish between:
   (a) majority opinion
   (b) concurring opinion
   (c) dissenting opinion

7.33. What should you include in the following parts of the brief of an opinion:
   (a) citation
   (b) parties
   (c) objectives of the parties
   (d) theories of the litigation
   (e) history of the litigation
   (f) facts
   (g) issue(s)
   (h) holding(s)
   (i) reasoning
   (j) disposition
7.34. A thumbnail brief is a brief of a _________.

7.35. When is an opinion analogous?

7.36. Describe two distinctions between common law and enacted law.

7.37. Give four examples of enacted law.

7.38. Judge-made law in the absence of controlling statutory law or other higher law is called _________ law.

7.39. When you apply an opinion, what two things do you compare?

7.40. An opinion is _________ _________ _________ when its facts are exactly the same or almost exactly the same as the facts of your case.

7.41. For the holding in an opinion to apply, the _________ _________ in the opinion must be substantially the same as the facts of your case.

7.42. When comparing the facts of the opinion with the facts of your case, what three comparisons do you make?

7.43. In which component of IRAC do you discuss the potential applicability of court opinions?

7.44. When comparing facts, what do you try to show when you want the holding to apply?

7.45. When comparing facts, what do you try to show when you do not want the holding to apply?

7.46. What is a roadmap paragraph?
Chapter 8: Legal Interviewing

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide. For some of the questions you will need more space to provide your answer. For such questions, use additional paper.

8.1. State two reasons attorneys sometimes portrayed negatively in the media.

8.2. Give two definitions of the word “retainer.”

8.3. What do we mean when we say someone has a deep pocket?

8.4. If an attorney decides not to represent someone, he or she should send that person a letter of _________ that explicitly says this.

8.5. List the three main kinds of legal interviews.

8.6. A competent initial client interview sets the foundation for what six events in the context of litigation?

8.7. What are the five components of the structure of an intake memo?

8.8. What two cautions are needed when using a checklist?

8.9. What is the relationship between legal analysis and legal interviewing?

8.10. What does it mean to particularize a fact?

8.11. Name eight categories of questions that you can ask about a fact in order to particularize that fact.

8.12. Give one of the main reasons clients sometimes have difficulty telling an interviewer what the client wants.
8.13. Define bias. What is the opposite of bias?

8.14. When is it appropriate for an interviewer to express his or her personal feelings about the case to the client? And what is the danger of doing so?

8.15. What is the “stomach test” for determining your own bias?

8.16. Name seven steps you should take to prepare for an interview.

8.17. Under what circumstances can a law firm be sued for breach of contract?

8.18. Technical language that does not have an everyday meaning is called __________.

8.19. List seven do’s and don’ts when beginning an interview.

8.20. “What’s the problem?” is an example of a question that is __________.

8.21. “What’s your maiden name?” is an example of a question that is __________.

8.22. “Why were you in Detroit?” is an example of a __________ question.

8.23. “Who saw you take it?” is an example of a __________ and __________ question.

8.24. “Did you return the file to the owner or give it to the police?” is an example of a __________ question.

8.25. “Why did you return to the house and what did you find there?” is an example of an __________ question.

8.26. List seven techniques for practicing attentive listening.
8.27. List five ways to achieve factual comprehensiveness during the interview.

8.28. List seven ways to avoid ethical problems during the interview.

8.29. List seven things to do when ending the interview.

8.30. List six ways to improve your interviewing skills.

8.31. Name four categories of “difficult” clients.
Chapter 9: Investigation in a Law Office

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide. For some of the questions you will need more space to provide your answer. For such questions, use additional paper.

9.1. Define legal investigation.

9.2. Give an example of what a forensic accountant might investigate.

9.3. What is due diligence?

9.4. How should the investigator view the information in the intake memo that was obtained from the client?

9.5. What is a fact?

9.6. What two ultimate questions should guide the investigator’s inquiry into every fact being investigated?

9.7. You ____________ a witness when you attack his or her credibility.

9.8. List four pretrial discovery devices.

9.9. Interrogatories are usually answered in person while deposition questions are usually answered through the mail. True or false? Explain.

9.10. What is substantive law?

9.11. Give two reasons why an investigator should study any available discovery documents, e.g., interrogatory answers.

9.12. An investigator should not waste time pursuing facts that cannot be clearly proven at the trial. True or false? Explain.
9.13. What is the distinction between evidence and proof?

9.14. Explain why there can be more than one version of the facts.

9.15. What is a leading question?

9.16. Define:
   (a) parol evidence
   (b) tangible evidence

9.17. Evidence without physical form is __________ evidence.

9.18. What is the name of the statute that you should check when you are having difficulty gaining access to government records?

9.19. List four factors that will help you assess the value of testimony of a witness claiming to have seen an event you are investigating.

9.20. Name the five kinds of witnesses an investigator might encounter.

9.21. What is a disinterested witness?

9.22. Investigators must be wary of disinterested witnesses who have a bias. True or false? Explain.

9.23. A witness who is __________ is compelled to appear.


9.25. Name five kinds of records to check to determine whether a judgment debtor has assets from which a judgment can be satisfied.
9.26. Name a database on Westlaw and a library on LexisNexis that can be used to help locate assets.

9.27. What is due diligence?

9.28. What is the function of a cross-reference directory, also called a reverse or criss-cross directory?

9.29. How can you use the services of the post office to help you locate a missing person?

9.30. What is skiptracing?

9.31. In what state did a person receive his or her Social Security card if the first three digits of the Social Security number are:
   (a) 100
   (b) 025
   (c) 450

9.32. List four steps that should be taken when investigating an automobile accident.

9.33. Explain the relationship between evidence and admissibility.

9.34. List four ways that a version of a fact can be established.

9.35. A jury will be allowed to disbelieve a fact that has been established as true by an irrebuttable presumption. True or false? Explain.

9.36. Distinguish between (a) direct evidence and (b) circumstantial evidence.

9.37. Fred says, “Bob blushed when asked if he knew that Bill’s money was stolen.”
   (a) What is the direct evidence from this statement?
   (b) What circumstantial evidence comes from the above statement?
9.38. All relevant evidence is conclusive evidence and all conclusive evidence is relevant evidence. True or false? Explain.

9.39. All relevant evidence is admissible evidence and all admissible evidence is relevant evidence. True or false? Explain.

9.40. By definition, if evidence is both relevant and admissible, it must be accepted as true by the jury. True or false? Explain.

9.41. Distinguish between (a) a competent witness and (b) a credible witness.

9.42. List the three preconditions of a witness being declared competent to give testimony in court.

9.43. An avowed atheist can never be competent to give testimony in court. True or false? Explain.

9.44. Witnesses can never state opinions. True or false? Explain.

9.45. State the four conditions for the presence of hearsay.

9.46. Which of the following exceptions to the hearsay rule (i–iv) will most likely apply to the evidence listed in (a) to (d):

(i) declaration against self-interest
(ii) dying declaration
(a) an invoice statement
(b) statement by a man just before he was killed
(c) an inconsistent statement by a party
(d) statement by Ted (a nonparty) that is damaging to Ted

(iii) business record
(iv) admission by a party-opponent

9.47. If any of the exceptions to the hearsay apply, the statement is not hearsay. True or false? Explain.
9.48. Assume that a client has made a prior statement to the individual listed below. What is the name of the privilege that might prevent this statement from being admitted into evidence?

(a) client's spouse
(b) Mary Smith, Esq.
(c) Rabbi Jones
(d) James Phillips, MD

9.49. Helen is charged with burglary. The police ask her if she did it. On what basis can she refuse to answer?

9.50. What is the best evidence rule?

9.51. What is authentication evidence?

9.52. Who is a testator?

9.53. Explain the parol evidence rule.

9.54. What is an evidence log?

9.55. Name three kinds of witnesses from whom you should take a witness statement.

9.56. Why should a “witness” statement be taken from someone who says he or she does not know anything?

9.57. List three items that go at the beginning of a witness statement.

9.58. Where should a witness sign or initial a witness statement?
9.59. Others who have watched the witness sign the statement should sign an __________ clause stating that they have done so.

9.60. Assume that there are seven pages to a witness statement. How should each page be numbered?

9.61. When should a paralegal correct spelling errors made by a witness in a witness statement that is handwritten by the witness?

9.62. What is a settlement work-up?

9.63. What are the obligations of an ethical investigator?
Chapter 10: Litigation Assistantship

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide. For some of the questions you will need more space to provide your answer. For such questions, use additional paper.

10.1. Define litigation.

10.2. Someone is ________ if he or she is prone to engage in disputes and litigation.

10.3. Name the three kinds of civil disputes.

10.4. Define criminal dispute.

10.5. What are damages?

10.6. What is the name of the clause or statement in the complaint that asks for damages?

10.7. Two persons found to be responsible for the entire harm suffered by the plaintiff are ________ and ________ liable.


10.9. An attorney tells a court that he or she represents a litigant by filing a ________ ________, with the court in order to become the ________ of ________.

10.10. The court where the case is tried is called the ________; the selection of a particular court within a judicial system is called the ________ of ________.

10.11. What are the two conditions that will give a federal court diversity-of-citizenship jurisdiction?

10.13. If someone is not sure of an answer, he or she can say, “I don’t know,” or give a response on __________ and __________.

10.14. What is service of process?

10.15. What is an allegation?

10.16. What law provides that a civil or criminal action is barred if not brought within a specified period of time?

10.17. All of the assets and liabilities of a decedent after he or she dies is referred to as the __________.

10.18. Complaints and answers are examples of __________.

10.19. What is another name for the failure to state a cause of action and a demurrer?

10.20. Against whom are the following documents usually directed or filed:
   (a) cross-claim
   (b) complaint
   (c) answer
   (d) counterclaim
   (e) third-party complaint
   (f) service of process
   (g) default judgment

10.21. In jury trials, what do judges decide and what do juries decide?

10.22. In nonjury trials, what is the role of the judge?

10.23. What is a summons?
10.24. What are the rules called that govern the conduct of noncriminal trials in federal trial courts?

10.25. A trial is avoided if the court grants (a) a default judgment, or (b) a summary judgment. What is the difference?

10.26. A defendant's answer based on new factual allegations that will defeat the plaintiff's claim even if the plaintiff's allegation are proven is raising an ___________ ___________.

10.27. Define summary.

10.28. Distinguish between:
(a) An alleged fact __________
(b) A stipulated fact __________

10.29. Which of the following are formal discovery devices: depositions, interrogatories, trials, summary judgment, pleadings, voir dire?

10.30. Distinguish between (a) an adversary hearing and (b) an ex parte hearing.

10.31. To question a person in a deposition is to __________ that person who is referred to as the __________.

10.32. What is a pretrial conference?

10.33. Distinguish between an issue of law and an issue of fact.

10.34. Define bias.

10.35. The jury panel consists of jurors who will hear the case. True or false? Explain.

10.36. Opening statements are made in voir dire. True or false? Explain.
10.37. Distinguish between: (a) challenge for cause and (b) peremptory challenge.

10.38. List the following four events in the order in which they will occur at a trial: cross-examination, closing argument, direct examination, redirect examination.

10.39. The attorney who conducts the cross-examination of a witness will conduct the redirect examination of that witness. True or false? Explain.

10.40. How is an expert witness qualified in order to give testimony?

10.41. Distinguish between (a) burden of proof and (b) standard of proof.

10.42. Give three examples of standards of proof.

10.43. Define the role of the following court personnel:
  (a) bailiff
  (b) clerk
  (c) magistrate

10.44. List the following three motions in the order in which they are made at trial: motion for a judgment as a matter of law, motion for a new trial, motion for a directed verdict.

10.45. What happens when a party has established enough evidence to make out a prima facie case?

10.46. When a judge delays making a ruling until another time, we say that the judge has taken the matter

10.47. Another name for jury instructions is the __________.

10.48. A fact is established by a preponderance of evidence when it is __________ that the fact is as the party alleges it to be.
10.49. Distinguish between (a) judgment and (b) verdict.

10.50. When will a motion for directed verdict be granted?

10.51. A state judge changes the verdict of the jury when the judge grants a motion for a ________.

10.52. Define a declaratory judgment.

10.53. Only admissible evidence can be introduced into evidence during the closing argument. True or false?

10.54. The trial is over when the judge adjourns the case. True or false? Explain.

10.55. Define timely.

10.56. To delay or suspend a judgment is to ________ its enforcement.

10.57. Define bond.

10.58. A dismissal without prejudice is res judicata? True or false? Explain.

10.59. To correct a mistake or error is to ________ the mistake or error.

10.60. Define:
(a) appellant
(b) respondent
(c) appellee


10.62. To ask an appellate court to review a case, the appellant files a ________.
10.63. What does it mean for a case to be placed on the court's docket?

10.64. Define transcript.

10.65. Distinguish between:

(a) oral argument

(b) closing argument

10.66. Define en banc.

10.67. What happens if a writ of certiorari is denied?

10.68. If an appellate court sends a case back to a lower court, the case is ___________ to the lower court.

10.69. Distinguish between:

(a) majority opinion

(b) concurring opinion

(c) dissenting opinion

10.70. Define record.

10.71. If an appellate court agrees with what a lower court did, the appellate court will ___________ the judgment below.

10.72. If counsel fails to object during the trial to a claimed error made by the trial judge, the objection is ____________.

10.73. Distinguish between:

(a) filing a writ of certiorari

(b) appealing as a matter of right
10.74. What is a mandate?

10.75. What happens when a judgment is satisfied?

10.76. Distinguish between:
   (a) felony
   (b) misdemeanor

10.77. Define indigent.

10.78. Define bail.

10.79. What is the effect of a nolle prosequi?

10.80. Distinguish between:
   (a) grand jury
   (b) trial jury

10.81. When does probable cause exist?

10.82. Place the following events in the order in which they often occur: preliminary hearing, arraignment, arrest, voir dire, indictment by grand jury.

10.83. Give three meanings of the word “prosecution.”

10.84. A criminal defendant who does not have to post bail is released on his or her __________ __________.

10.85. When a defendant charged with murder agrees to plead guilty to a charge of criminal assault in exchange for dropping the murder charge, the defendant is engaging in __________ __________.
10.86. When is evidence relevant?

10.87. Define impeach.

10.88. What is another term for hearing examiner?

10.89. Before you are allowed to appeal an agency decision in court, you must ____________.

10.90. Distinguish between: (a) court of appeals and (b) board of appeals.

10.91. Define trial de novo.

10.92. ADR stands for ____________ ____________.

10.93. List seven forms of ADR.

10.94. Distinguish between arbitration and mediation.

10.95. Using arbitration after trying mediation is called ____________.

10.96. In a summary jury trial, the attorneys argue their case before an ____________ jury.

10.97. What is neutral evaluation?

10.98. List ten pretrial tasks in which litigation paralegal can be involved.

10.99. Name seven components of many complaints.

10.100. All complaints allege subject matter jurisdiction. True or false? Explain.
10.101. Distinguish between fact pleading and notice pleading.

10.102. Attorneys must verify all complaints. True or false? Explain.

10.103. What is a template and how can it be helpful in drafting?

10.104. Give an example of substituted service.

10.105. Define subpoena.

10.106. What is the distinction between subpoena duces tecum and subpoena ad testificandum?

10.107. What is a civil cover sheet?

10.108. What is a docket number?

10.109. What is e-filing?

10.110. What is the value of PDF?

10.111. What is the function of PACER?

10.112. What is a demand letter?

10.113. What is the function of a tickler?

10.114. Name five discovery devices.

10.115. Which of these five discovery devices are not limited to parties only?

10.116. Workers whose main job is to digest depositions are sometimes called ____________.
10.117. What is a Bates stamp and how does it work?

10.118. Give some examples of e-evidence.

10.119. What is the function of an evidence log?

10.120. Describe the three kinds of discovery digests: page/line digest, chronological digest, and topical digest.

10.121. Distinguish between quoting testimony and paraphrasing testimony.

10.122. What is a trial notebook?

10.123. List nine of the possible sections of a trial notebook.

10.124. List three possible paralegal tasks involving expert witnesses.

10.125. List four possible paralegal tasks during a trial.

10.126. What is a timeline?

10.127. Why would a law firm hire shadow jurors?

10.128. List three tasks that a paralegal can be asked to undertake in reading the transcript of a completed trial.

10.129. What is meant by the execution of the judgment?

10.130. What does a paralegal do when cite checking?

10.131. Give an example of a paralegal investigation task after trial and appeal.
Chapter 11: Legal Research

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide. For some of the questions you will need more space to provide your answer. For such questions, use additional paper.

11.1. If you have access to a legal research computer, you do not need a course in legal research covering traditional (paper) volumes. True or false? Explain.

11.2. Define online.

11.3. Why do you need to forget most of the law you learn in school?

11.4. What is hypertext?

11.5. Why do you need to be cautious about legal material you find on the Internet?

11.6. Distinguish between primary and secondary authority.

11.7. What is a federal depository library?

11.8. What are the four main functions of legal materials that exist for any of the categories of law?

11.9. For opinions, name one set of materials or special volumes that: (a) contain their full text, (b) help locate them, (c) help understand them, and (d) help determine their current validity.

11.10. For statutes, name one set of materials or special volumes that: (a) contain their full text, (b) help locate them, (c) help understand them, and (d) help determine their current validity.

11.11. For constitutions, name one set of materials or special volumes that: (a) contain their full text, (b) help locate them, (c) help understand them, and (d) help determine their current validity.

11.12. List the four major formats of legal research.
11.13. What is meant by CALR?

11.14. What are the three traditional paper media for legal materials?

11.15. What is a looseleaf service?

11.16. Something is in the __________ if it is accessible to anyone at no cost because it is not protected by copyright or patent.

11.17. Define CD-ROM.

11.18. What are the two main categories of microforms?

11.19. There are standard definitions of all legal research words and phrases. True or false? Explain.

11.20. The word “digest” always refers to volumes of brief summaries of court opinions. True or false? Explain.

11.21. Summaries of opinions are sometimes called __________ or __________ and are published in digests, among other places.

11.22. Define: (a) slip law, (b) session law, and (c) statutory code.

11.23. What is the name of a collection of administrative regulations organized by subject matter rather than chronologically or by date.

11.24. What is meant by an advance or advance sheet?

11.25. Describe the function of the following:

(a) advance sheet for reporters
(b) advance sheet for Shepard's
(c) advance sheet for statutory code
11.26. Advance sheets for statutory codes are sometimes called _________.

11.27. Name the eight units of American Law Reports and give their abbreviations.


11.29. What courts are covered in the American Digest System?

11.30. Name the three units of the American Digest System.


11.31a. What is meant by (a) an annotation in general and (b) an annotation in A.L.R.?

11.32. To what set of books are you being sent when a supervisor tells you to “find out if there are any annotations”?

11.33. What is an annotated statutory code?

11.34. Give two abbreviations for annotated.

11.35. What is an annotated bibliography?

11.36. What is the digest that summarizes cases in Atlantic Reporter 2d?

11.37. What is the function of Auto-Cite and where is it found?

11.38. What is the name of the citation manual that is the major competitor of the Bluebook?

11.40. The steps a bill goes through to become a law is its ___________ history.

11.41. What is the function of the following bluebook or blue book:

(a) Bluebook: A Uniform System of Citation

(b) National Reporter Bluebook

(c) A.L.R. Blue Book of Supplemental Decisions

(d) state directory bluebook

11.42. What set of books will enable you to find the parallel cites for the opinions of one state only?

11.43. Next to the list of items from (a) to (g) below, state which of the following words or phrases are most directly relevant:

(i) rules of citation (v) updates annotations
(ii) parallel cites (vi) legal encyclopedia
(iii) appellate brief (vii) annotated reporter
(iv) official record of debates

(a) Congressional Record........................... __________
(b) Am Jur 2d...................................... __________
(c) A.L.R.5th...................................... __________
(d) National Reporter Blue Book.................... __________
(e) Uniform System of Citation...................... __________
(f) A.L.R. Blue Book of Supplemental Decisions........... __________
(g) amicus curiae.................................. __________

11.44. Distinguish between:

(a) brief of a court opinion

(b) amicus curiae brief

(c) trial brief

(d) appellate brief
11.45. What is a bulletin?

11.46. What is contained in Cal. Rum.?

11.47. Give three meanings of the word “case.”

11.48. What is a docket?

11.49. What is contained in reporters?

11.50. Distinguish between:
   (a) official reporter
   (b) unofficial reporter

11.51. The National Reporter System consists of ______ reporters.

11.52. Name eleven places where you may be able to read the same court opinion.

11.53. What is an unpublished opinion?

11.54. Where can you read some unpublished (unreported) opinions?

11.55. What is contained in the Federal Appendix?

11.56. Name four sets of books that contain every U.S. Supreme Court opinion.

11.57. The opinions of what federal courts are currently in F.3d?

11.58. The opinions of what federal courts are currently in F. Supp. 2d?
11.59. Interpret the following abbreviations of reporters:

(a) L.Ed.2d -
(b) S.E.2d -
(c) U.S. -
(d) F.R.D. -
(e) S. Ct. -
(f) M.J. -
(g) F.3d. -
(h) P. -
(i) P.2d -
(j) N.Y.S.2d -
(k) U.S.L.W. -
(l) So. 2d -
(m) A.L.R.4th -

11.60. What is the official reporter of the opinions of the U.S. Supreme Court and what is the abbreviation of this reporter?

11.61. Name the publisher of the following books:

(a) United States Law Week......
(b) F.3d.........................
(c) F. Appx.....................
(d) National Reporter Blue Book
(e) A.L.R. Fed.................
(f) Am. Jur. 2d...............  

11.62. Every state has an official and an unofficial reporter for the opinions of its highest state court. True or false? Explain.

11.63. Name the seven regional reporters of the National Reporter System.
11.64. Name the regional reporter that contains the state court opinions of:
   (a) Maine:
   (b) Ohio:
   (c) Nebraska:
   (d) Oregon:
   (e) Virginia:
   (f) Florida:
   (g) Missouri:

11.65. Four of the reporters you listed in question 11.64 have regional digests. What are they?

11.66. What two West Group reporters print opinions of New York state courts?

11.67. What two West Group reporters print opinions of California state courts?

11.68. What two West Group reporters print opinions of Illinois state courts?

11.69. Why isn’t N.Y.S. a regional reporter?

11.70. Distinguish between (a) a regional reporter and (b) a special edition state reporter:

11.71. An __________ __________ is another name for a special-edition state reporter.

11.72. Opinions in most reporters are arranged by subject matter. True or false? Explain.

11.73. What is the name of the set of books that serves as the index to the opinions in reporters?

11.74. Law school classroom textbooks are called __________.
11.75. What is contained in the Century Digest?

11.76. What is CIS and what does it publish?

11.77. What is the meaning of the following:
(a) citation:
(b) citator:
(c) parallel cite:

11.78. What is a public domain citation?

11.79. Name three online citators.

11.80. What are the two main reasons you use a citator?

11.81. What are CLE materials?

11.82. What is a code?

11.83. Distinguish between (a) codified and (b) uncodified.

11.84. Name two categories of laws that are often codified.

11.85. Name two places a statute is printed before it is codified.

11.86. Unofficial reporters of West Group are codified. True or false? Explain.

11.87. What is the name of the code containing federal administrative regulations?
11.88. Before administrative regulations are printed in the C.F.R., where are they printed?

11.89. What is the name of the online Code of Federal Regulations?

11.90. What is printed in the Congressional Record?

11.91. C.J.S. is a West Group digest. True or false? Explain.

11.92. Name three uses of C.J.S.

11.93. Define cumulative and give an example of materials that are often cumulative.

11.94. Assume there are three pamphlets on the shelf that are part of the same set. (a) Which do you have to check if the three pamphlets are cumulative? Why? (b) Which do you have to check if the three pamphlets are not cumulative? Why?

11.95. What is the function of CLI?

11.96. What are the versions of CLI?

11.97. What is contained in a Decennial Digest?

11.98. What is the relationship between reporters and digests?

11.99. The only digests that contain the full text of court opinions are the digests of West Group. True or false? Explain.

11.100. Explain the organizational principle that West Group uses to classify the cases covered in its digests.

11.101. What is the relationship between (a) headnotes at the beginning of cases in West Group reporters, and (b) the brief paragraphs in West Group digests?
11.102. Summaries of cases in digests are called ___________ or ___________.

11.103. Name the two components of every key number.

11.104. List four kinds of West Group digests. State what each covers and give an example of each.

11.105.
(a) What is the name of the national digest of West Group?
(b) Name the three units of this digest and the periods each covers.

11.106. How are West Group digests and A.L.R. annotations similar?

11.107. Name six West Group digests covering only federal courts.

11.108. Name three federal courts whose opinions are summarized in West Group digests.

11.109. What is a regional digest?

11.110. What is the relationship between a key number in a printed digest volume and a k number in Westlaw?

11.111. For each of the following courts, name all the digests that summarize the opinions written by that court.
(a) A U.S. District Court:
(b) The highest state court in California:
(c) A U.S. Court of Appeals
(d) The U.S. Supreme Court

11.112. Name the four regional digests.

11.114. What is contained in F.R.D.?

11.115. What is another name for formbooks?

11.116. What is contained in the General Digest and what period does it cover?

11.117. What is the relationship (link) between the material in the General Digest and the next Decennial Digest?

11.118. What two numbers are found on every headnote in a West Group reporter?

11.119. What is the function of the ILP?

11.120. Where is ILP available?

11.121. Define Internet and network.

11.122. Name six examples of legal information you can find on the Internet.

11.123. What is the Internet address of the federal courts?

11.124. What is the function of hypertext on the World Wide Web?

11.125. What is the distinction between an intranet and an extranet?

11.126. Define interstate compact.

11.127. What is KeyCite, where is it found, and what does it compete with?

11.128. What multivolume dictionary contains extensive definitions from court opinions?
11.129. Name the two major national legal encyclopedias.

11.130. What kind of information is often found in legal newsletters?

11.131. Name two kinds of legal newspapers.

11.132. List four kinds of information found in legal newspapers.

11.133. What are the three kinds of legal periodicals?

11.134. Give two names for academic legal periodicals.

11.135. What does it mean to be “on law review”?

11.136. What are the two main kinds of academic legal periodicals?

11.137. What are the two major indexes to legal periodical literature?


11.139. All legal treatises are written by private citizens. True or false? Explain.

11.140. Another name for statutes is __________.

11.141. What is the distinction between a public law and a private law?

11.142. Name three places where public laws are published.

11.143. Name two places where private laws are published.
11.144. What is LexisNexis?

11.145. What is a looseleaf service?


11.147. What is the Internet address of Martindale-Hubbell Law Directory?

11.148. What is the National Reporter System? What system does it use to classify issues?

11.149. What is the New York Supplement 2d?

11.150. North Western Digest summarizes cases in the __________ __________ Reporter.

11.151. The Pacific Digest summarizes cases in the __________ Reporter.

11.152. A nutshell is a __________ in pamphlet form that summarizes a topic often covered in a __________ course.

11.153. Which of the following regional reporters have regional digests: North Eastern Reporter, North Western Reporter, Pacific Reporter?

11.154. What are Pattern Jury Instructions?

11.155. What is a pocket part and what is its function?

11.156. A public domain citation is medium __________ (meaning that it can be read in a paper volume or online) and vendor __________ (meaning that it does not contain volume, page, or other identifying information created by particular vendors such a commercial publisher).

11.157. The __________ is the official collection of what happened during the trial including a transcript covering testimony, pleadings, exhibits, etc.
11.158. A regional digest summarizes cases in a __________ reporter.

11.159. What is a register?

11.160. What do reporters contain?

11.161. Unofficial reporters are published under the authority of the government. True or false? Explain.


11.163. Before a final Restatement is issued, it is often published as a __________.

11.164. Court rules are also called __________


11.166. Session laws are printed by subject matter rather than chronologically. True or false? Explain.

11.167. Public laws are also called __________.

11.168. Private laws are also called __________.

11.169. What happens to public laws when they are codified?

11.170. What is meant by shepardizing something?

11.171. What are the three versions of Shepard's?

11.172. Give four examples of the kind of material you might find when shepardizing a case.

11.173. Name thirteen items that can be shepardized.
11.174. All of your answers to question 11.172 constitute citing material. True or false? Explain.

11.175. List the sets of Shepard’s that would be used to shepardize material in the following sets of books:
(a) Supreme Court Reporter:
(b) United States Code:
(c) Rhode Island Constitution:
(d) Federal Supplement 2d:
(e) F.3d:
(f) C.F.R:

11.176. Distinguish between slip law and slip opinion.

11.177. Where are all slip laws later reprinted? Are they printed there chronologically or by subject matter?

11.178. Which of the following regional reporters have regional digests: South Eastern Reporter, Southern Reporter, South Western Reporter?

11.179. The technique called _________ enables you to find the corresponding official page number for a page in an unofficial reporter.

11.180. Why will vendor-neutral citation systems make the technique you listed in question 11.179 unnecessary?

11.181. Statutes at Large consist of an ______________ printing of statutes.

11.182. What do you learn about a set of statutes when you are told that the statutes are (a) in a code and that (b) the code is annotated?

11.183. What is the distinction between an official and an unofficial statutory code?

11.184. Summaries of cases that have interpreted statutes in an annotated code are often called ____________.
11.185. Where can you find the United States Code online free?

11.186. Name three fee-based online services that contain federal statutory codes.

11.187. Name three codes that contain the statutes of Congress. Place an asterisk after the official code.


11.189. (a) Who writes uniform state laws? (b) What is their function?

11.190. What is the function of the following tables in U.S.C.C.A.N.:

(a) Table 2:

(b) Table 4:

11.191. What BNA publication prints opinions of the U.S. Supreme Court?

11.192. What is the official reporter of the U.S. Supreme Court?

11.193. What are the advance sheets called for the reporter you identified in question 11.192?


11.195. What is Westlaw?

11.196. Name a multivolume legal dictionary.

11.197. Distinguish between:

(a) primary authority

(b) secondary authority
11.198. Secondary authority can be mandatory authority. True or false? Explain.

11.199. Primary authority can be persuasive authority. True or false? Explain.

11.200. A statute can be secondary authority. True or false? Explain.

11.201. A Restatement can be primary authority. True or false? Explain.


11.203. Give examples of secondary authority.

11.204. Give four examples of enacted law.

11.205. Name three conditions or tests to determine when a statute is mandatory authority and must be followed.

11.206. You are asking a question of ________ intent when you ask what the legislature intended by a particular clause or phrase in a statute.

11.207. If the legislature intended its statute to cover the facts before the court, then the statute by definition is mandatory authority. True or false? Explain.

11.208. A federal administrative regulation can be superior in authority to a state constitutional provision. True or false? Explain.

11.209. When is a statute of Congress superior in authority to state laws?

11.210. What two conditions must be met for a court opinion to be mandatory authority?

11.211. When is an opinion analogous?
11.212. For each of the opinions described below, state whether the opinion is mandatory authority (ma) or, at best, only persuasive authority (pa):

(a) an analogous opinion of a New York state court that is being considered by an Ohio state court

(b) an analogous opinion written by a lower court that is being considered by a higher court in the same judicial system

(c) an analogous opinion written by a higher court that is being considered by a lower court in the same judicial system

11.213. Define stare decisis.

11.214. What is a precedent?

11.215. What is the distinction between subject matter jurisdiction and personal jurisdiction?

11.216. What kind of jurisdiction must a state court have before its conflict-of-law principles will require it to follow an opinion written by a state court in another state?

11.217. What does the full faith and credit clause of the U.S. Constitution say?

11.218. When are state courts required to follow opinions of a federal court?

11.219. The _________ in the U.S. Constitution says federal law controls over state or local law whenever a federal question is raised.

11.220. When does diversity of citizenship exist and what is its effect in a federal court?

11.221. When a court had diversity jurisdiction, it applies state procedural law and federal substantive law. True or false? Explain.

11.222. What is the forum?

11.223. Define dictum.
11.224. The _________ is the court's answer to one of the legal issues in the case.

11.225. What are the major categories of secondary authority?

11.226. What is the proper foundation for the use of a quote from secondary authority in your legal writing?


11.228. What is an issue of first impression?

11.229. Define citation.

11.230. There are no official rules of citation. True or false? Explain.

11.231. Name the two major citation manuals.

11.232. What is the functional purpose of a citation?

11.233. If you open a law book that says, “Cite this book as...,” what should you do?

11.234. The following are all fictitious cites. Determine whether there are any defects in the citation form, e.g., a date is missing, the name of the court should be in parenthesis at the end, etc. Do not go to the library to check any of these cites. Simply look at the form of the cite to determine whether you see any defects based on the citation guidelines in the chapter.

(a) Smith v. Jones, 54 F.2d 679 (1980)
(b) Thompson v. Yebbara, 36 S.Ct 1276, 45 U.S.12, 17 L.Ed2d 7 (1945)
(c) Donaldson v. Jackson, 45 F.Supp. 547 (1965)
(d) Sampson v. Kelly, 63 N.E.2d 122, 75 Mass. 790, 794 (1970). (Assume that a parallel cite is required for this cite.)
(e) Nelson, Secretary v. ABC Company, 50 F.2d 670 (4th Cir. 1980)
11.235. Define parallel cite.

11.236. Distinguish between a parallel cite to a case and the same case on appeal.

11.237. List six techniques of trying to find a parallel cite to an opinion.

11.238. What information will you find in the caption of an opinion?

11.239. Every opinion has a parallel cite. True or false? Explain.

11.240. Give three reasons why you may not find a parallel cite of an opinion when you shepardize that opinion.

11.241. What is the distinction between an official cite and an unofficial cite?

11.242. Where can you find out if an official reporter has been discontinued?

11.243. When do you provide a parallel cite to an opinion in:
   (a) U.S.
   (b) F.3d
   (c) F. Supp. 2d

11.244. When do you provide a parallel cite to a state court opinion?

11.245. By looking at the abbreviation of a reporter in a cite, how can you tell if the case was written by the highest state court?

11.246. If you do not need a parallel cite, where should you abbreviate the name of the court that wrote the case?

11.247. When a parallel cite is needed, place the unofficial cite before the official cite. True or false? Explain.
11.248. Why do you need to abbreviate the name of the court after every F.3d cite and after every F. Supp. 2d cite?

11.249. You always give the full name of business parties in a citation. True or false? Explain.

11.250. When can you use the words “State,” “Commonwealth,” or “People” for one of the parties in a citation?

11.251. Assume that John Davidson, MD, is suing the state of Georgia in a Georgia court. How would the parties be cited?

11.252. Same question as in question 11.251, but this time the suit is being brought in a Florida court. How would the parties be cited?

11.253. How do you cite the parties in consolidated litigation?

11.254. Always give the litigation status of parties in a citation. True or false? Explain.

11.255. What does in re mean when you find it in the caption of an opinion?

11.256. When do you use the docket number in a citation?


11.258. What history of a case should you include in its citation?

11.259. What is a writ of certiorari?

11.260. Distinguish between overrule and reverse.

11.261. What is a nominative reporter?
11.262. Assume that the only information you have about an opinion written by the Supreme Court of Illinois is that the parties were *Darby v. Livingston*, the case was decided 3/13/08, and the docket number of the case was C-548. You want to read this opinion. Give six techniques of finding it.

11.263. Assume that you want to quote from page 100 of an opinion that begins on page 89 of the sixtieth volume of N.E.2d. The opinion is *Smith v. Smith*, decided by the highest state court in New York in 1996. (Assume that New York does not require parallel cites for documents submitted to New York State courts.) What is the citation of this quote?

11.264. What is a pinpoint cite and when is it needed in parallel cites?

11.265. List some of the main differences between a cite to a traditional reporter and a vendor-neutral citation.

11.266. When citing a constitutional provision, when do you need to provide a date?

11.267. When citing a federal statute in a code, you give the date the statute was enacted. True or false? Explain.

11.268. How often does a new edition of the U.S.C. come out?

11.269. What is the abbreviation for United States Statutes at Large?

11.270. When are you required to cite a federal statute in Stat.?

11.271. What is meant by being enacted into positive law?

11.272. How do you abbreviate public law?

11.273. List two ways to translate a public law cite into a U.S.C. cite.

11.275. What is the relationship between what is in the U.S.C. and what is in either the U.S.C.A. or the U.S.C.S.?

11.276. How do you cite a federal session law that has been codified?

11.277. When citing a state statute, there may be several dates that you could use. List the three possible dates that you could use in the order of preference.


11.279. How do you tell the reader of your citation of a regulation in the Federal Register where it will be codified in C.F.R.?

11.280. What is meant by legislative history?

11.281. What is the difference in citing page numbers in the bound and daily Congressional Record?

11.282. In a citation, use the first initial of the author of a legal periodical article but not of a book. True or false? Explain.

11.283. When citing a quotation from a legal periodical article, what is a pinpoint cite and where is it placed?

11.284. When citing C.J.S. or Am. Jur. 2d, do you use page or section numbers?

11.285. What are the four components of a citation to material on the Internet according to the Bluebook?

11.286. What is cite checking?

11.287. When doing a cite check, why is it a good idea to make your notations on a page of a document in a color that is different from the color used by the author of the document or by others?

11.288. What is a table of authorities?
11.289. Distinguish between supra and infra.

11.290. Describe how you check supra, infra, and id. references.

11.291. When you cite a case or other document more than once, you must give the complete citation each time. True or False? Explain.

11.292. Assume that earlier in a memo, you have cited *Davidson v. Couch*, 578 F. Supp. 2d 178 (D. Idaho 2003). Later in the memo you want to cite page 184 of this case. What is the short form of this cite?

11.293. What page of a law book tells you how current it is?

11.294. Explain how to use the pocket part of a law book.

11.295. Assume you are reading § 56(b) in the bound volume of a statutory code. When you then check § 56(b) in the pocket part of this volume, you find no mention of it. What does this mean?

11.296. List eight kinds of law books that always or often are kept current with pocket parts.

11.297. List eight kinds of law books that are never kept current with pocket parts.

11.298. How are the materials listed in question 11.297 kept current?

11.299. What is an errata page?

11.300. Define term of art.

11.301. The CARTWHEEL is designed to help you use the _________ and the _________ of law books.

11.302. Name the eight categories of the CARTWHEEL.
11.303. List several words for each of the eight categories of the CARTWHEEL for the word “wound.”

11.304. Explain the descriptive words method of generating search terms.

11.305. Explain the TAPP method of generating search terms.

11.306. Name the three levels of legal research and the function that each level serves.

11.307. If you wanted to use Google to obtain a definition of interrogatories, how could you phrase the query in the search box?

11.308. When do you need to do background research?

11.309. List nine categories of secondary authority where you may be able to find useful background research.

11.310. The main objective of legal research is to locate __________ authority.

11.311. Give five examples of primary authority written by each of the following governments:
(a) the federal government
(b) a state government
(c) a local government

11.312. What is the main classification system most law libraries use to classify their collections?

11.313. Many law books have __________ call numbers.

11.314. If you were in the open stacks of a law library that uses the LC classification, what KF numbers would you go to find materials on:
(a) civil procedure law
(b) corporate law
(c) paralegals
(d) trials
11.315. The case summaries in West Group digests are organized under the ___________ system.

11.316. Key numbers in West Group digests come from ___________ printed at the beginning of opinions in West Group reporters.

11.317. Assume that a U.S. District Court sitting in Texas has just written an opinion (Smith v. Smith) that will be printed in F. Supp. 2d. West Group will write headnotes for this opinion. List seven places where West Group will print these headnotes.

11.318. Explain the relationship between a key number in a West Group digest and a k number in Westlaw.

11.319. What three steps are taken to trace a key number through the American Digest System?

11.320. Name the main index to the units of the American Digest System.

11.321. List two values of the Defendant-Plaintiff table of cases in digests.

11.322. If you find a key number through the DWI, you will always find case law summarized under that key number in the main volumes of the digest. True or false? Explain.

11.323. List ways to find key numbers on the topics of your research.

11.324. The Century Digest has key numbers since it is published by West Group. True or false? Explain.

11.325. What is the value of the Table of Key Numbers in General Digests?

11.326. What are the abbreviations of the eight sets that contain annotations?

11.327. In what way do the eight sets of annotations duplicate the material in West Group digests?

11.328. What is meant by on point?

11.329. List three ways to find annotations in A.L.R.1st.
11.330. List three ways to find annotations in A.L.R.2d.


11.333. When annotations discuss or mention whatever you are shepardizing, the annotations are ____________.

11.334. What are the following tables and where are they printed: Table of Jurisdictions Represented, Table of Courts and Circuits, Jurisdictional Table of Cited Cases and Statutes?

11.335. Name two methods of updating an annotation in A.L.R.1st.

11.336. Name two methods of updating an annotation in A.L.R.2d.


11.338. Distinguish between superseded annotation and supplemental annotation.

11.339. Where can you find out if superseding or supplemental annotations exist?

11.340. What does shepardize mean?

11.341. Why do we call Shepard's a citator?

11.342. What are the two main units of a set of Shepard's?

11.343. What do we mean when we say that the supplements of Shepard's are cumulative?

11.344. What are the three formats in which you can read Shepard's?
11.345. How do you determine whether you have a complete set of Shepard’s?

11.346. Distinguish between cited material and citing material.

11.347. Assume you are shepardizing 45 Mass. 890. In the columns of Shepard’s you find that 43 F.2d 632 followed (f) 45 Mass. 890.

(a) What is the citing material?

(b) What is the cited material?

11.348. Assume that you are shepardizing § 100, a statute. In the columns of Shepard’s, you find that an article on page 1127 of volume 79 of the Harvard Law Review (79 HLR 1127) discussed § 100.

(a) What is the citing material?

(b) What is the cited material?

11.349. Name two places where you can find the meaning of abbreviations in the units of Shepard’s.

11.350. In Shepard’s, what is the meaning of the asterisk symbol (*) and the delta symbol (Δ)?

11.351. List six kinds of information you can try to obtain when shepardizing a case.

11.352. What is a docket number and when will Shepard’s give you one?

11.353. What do you learn about the cited case when the following abbreviations are found next to a citing case:

(a) s

(b) r

(c) v

(d) f

(e) q

(f) c

(g) e
11.354. Explain how Shepard's can be used as a case finder.

11.355. Explain why you may be able to shepardize the same case through more than one set of Shepard's.

11.356. Assume you are shepardizing a case. Give three reasons why you may find no citing material for your cited case in Shepard's.

11.357. A page number in a citing case is the page on which the citing case begins. True or false? Explain.

11.358. List seven kinds of information you can try to obtain when shepardizing a statute.

11.359. Explain the distinction between public laws and private laws.

11.360. List and define the three major formats in which statutes are found.

11.361. Only private laws are published in a code. True or false? Explain.

11.362. Which cite of a statute do you need in order to shepardize that statute?

11.363. Assume you are shepardizing 34 Del. Code § 4559. In the columns of Shepard's you find the following notation for this statute: A1988C69. What is the meaning of this notation?

11.364. Assume you are shepardizing 40 U.S.C. § 32(b). In the columns of Shepard's you find the following citing material: 966FS12*1996. What is the meaning of this citing material?

11.365. Same question as in question 11.364 except that the citing material now says 966FS12Δ1996. What is the meaning of this citing material?

11.366. What does “et seq” mean when you are shepardizing a statute?

11.367. List three kinds of information to obtain when shepardizing a C.F.R. regulation.
11.368. The great value of C.F.R. Shepard's is that you can obtain the history of the cited regulation in the agency that wrote the regulation. True or false? Explain.

11.369. In C.F.R. Shepard's, explain the meaning of the asterisk (*) and the delta symbol (Δ).

11.370. An asterisk (*) next to the date of citing material in C.F.R. Shepard’s means that the citing material discussed the cited regulation but did not give the year of the cited regulation. True or false? Explain.

11.371. How do you find out what federal statute is the authority (the enabling statute) for a regulation in C.F.R.?

11.372. What is the name of Westlaw’s online alternative to Shepard's?

11.373. What are the names of the two formats for looseleaf services based on how updating material is filed in them?

11.374. Describe five kinds of the features commonly found in looseleaf services.

11.375. List three categories of literature often found in legal periodicals.

11.376. Who are the two major indexes to legal periodical literature?

11.377. In both ILP and CLI, what is the function of the table of cases and the table of statutes?

11.378. What is LegalTrac?

11.379. What is MEDLINE?

11.380. What are the two major national legal encyclopedias?

11.381. What phrase refers to any statement of a fundamental or basic principle of law?
11.382. What is the name of the table in Am. Jur. 2d and C.J.S. that will tell you where you will find a discussion of a particular statute or regulation in the legal encyclopedia?

11.383. Name several states that have a local legal encyclopedia.


11.385. List three ways that some treatises can be updated.

11.386. Once you have found a legal treatise that is relevant to your research problem, what two ways can you find a book review of that treatise?

11.387. List six possible experts or sources of experts on an area of the law.

11.388. If you already have a case on point, name eight techniques of finding more case law.

11.389. If you already have a relevant statute, name eight techniques of finding cases interpreting the statute.

11.390. Assume you already have a statute. What tables would you check to find out if the statute has been discussed in:
   (a) annotations
   (b) legal periodicals

11.391. In an annotated code, state the function of:
   (a) an historical note
   (b) notes of decisions

11.392. If a code is annotated, the statutes in it are arranged chronologically. True or false? Explain.

11.393. What are session laws?
11.394. What is meant by construction?

11.395. Explain ejusdem generis.

11.396. When briefing a statute, what ten questions need to be asked?

11.397. A statute is _________ if it requires something to be done; it is _________ if it permits something to be done but does not require or mandate it.

11.398. If you know the popular name of a statute, you can find it through the _________ in the code.

11.399. If you have a federal session law statute, what two tables will allow you to translate it into a U.S.C./ U.S.C.A./U.S.C.S cite?

11.400. Give an example of an Internet address where you can find federal statutes.

11.401. Name ways to determine whether a statute you have found is still valid.

11.402. Name ways to find cases interpreting a statute you have found.

11.403. What is an enabling statute?

11.404. Where can you find the enabling statute of a federal administrative agency?

11.405. How can you find legal periodical literature on a statute?


11.407. What does a legislative service provide?
11.408. List techniques to find the legislative history of a state statute.

11.409. What does PL mean?

11.410. What is the function of a compiled legislative history?

11.411. What is the function of Table 4 in U.S.C.A.N.?

11.412. List techniques that you might check when researching the legislative history of a federal statute.

11.413. What is a lobbyist?

11.414. What is meant by monitoring proposed legislation?


11.416. What is a constitution?

11.417. The full text of a constitution is usually found at the beginning of the __________ for the jurisdiction.

11.418. What Supreme Court digest covers only opinions of the U.S. Supreme Court?

11.419. The __________ Act is a statute that governs the steps that an agency must take in order to write a regulation or issue an administrative decision. It governs procedures before administrative agencies.


11.422. List techniques to locate regulations in C.F.R.

11.423. Name techniques to determine if a C.F.R. regulation has been affected (e.g., changed) by something in the Federal Register.

11.424. Name three ways to find annotations that have interpreted a statute.

11.425. Where can you obtain a list of every state administrative register and administrative code?

11.426. What Internet sites will lead you to many municipal codes?

11.427. List two special treatises on the federal rules of court.

11.428. Distinguish between treaty and executive agreement.

11.429. (a) Name a database in Westlaw that contains treaties. (b) Name a library in LexisNexis that contains treaties.

11.430. What is validation research?

11.431. Why is it relatively easy to rely on invalid case law?

11.432. What is it relatively easy to rely on invalid statutory law?

11.433. What five things must you do when you view your research from the perspective of the other side?

11.434. What three questions should you ask yourself at the validation stage of legal research?

11.435. What are the five categories of a research audit?

11.436. List three guidelines to help you determine when to end your legal research.
Chapter 12: Legal Writing

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide. For some of the questions you will need more space to provide your answer. For such questions, use additional paper.

12.1. List seven suggestions you should follow for every writing assignment you receive.

12.2. What is an instrument?

12.3. Give four examples of instruments.

12.4. What are pleadings?

12.5. What are the two major pleadings?

12.6. State the function of the following:
   (a) cover letter
   (b) demand letter
   (c) status letter
   (d) informational letter
   (e) confirmatory letter
   (f) opinion letter

12.7. What does bcc mean? When is it used in a letter?

12.8. What is the function of the RE line in a letter?

12.9. List and explain the function of four possible components of the body of a letter.
12.10. Distinguish between:
(a) external or advocacy memorandum
(b) office or interoffice memorandum

12.11. Give three other names for an external memorandum of law.

12.12. List eight parts or sections of many office memos.

12.13. List eight parts or sections in the heading of an office memo and state the function of each.

12.14. The _______ paragraph is an overview or thesis paragraph.

12.15. What are the two critical components of a legal issue?

12.16. List three important characteristics of a statement of facts in an office memo.

12.17. What four categories of facts should an office memo contain?

12.18. What is the function of STOP and how does it work?

12.19. What part of IRAC is used in the discussion section of the memo?

12.20. Define:
(a) brief of a case
(b) trial brief
(c) appellate brief
(d) brief bank
12.21. List the order in which the following are often prepared: (i) reply brief (ii) appellee brief (iii) appellant brief

12.22. Give the function of the following parts of many appellate briefs:

(a) caption
(b) statement of jurisdiction
(c) table of contents
(d) table of authorities
(e) questions presented
(f) statement of the case
(g) summary of argument
(h) argument
(i) conclusion
(j) appendixes

12.23. What is a point heading?

12.24. What is a truncated passive?

12.25. Give the preferred way to state the following:

(a) by means of
(b) forthwith
(c) subsequent to
(d) give consideration to
(e) draftsman

NOTE: A more extensive coverage of the basics of writing is presented in Part II of this Study Guide.
Chapter 13: An Introduction to the Use of Computers in a Law Office

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide. For some of the questions you will need more space to provide your answer. For such questions, use additional paper.

13.1. List nine steps you can take on your own to develop your computer skills.

13.2. Distinguish between:
   (a) hardware
   (b) software

13.3. Distinguish between: (a) operating or systems software and (b) applications software.

13.4. List three input devices.

13.5. Distinguish between: (a) ROM and (b) RAM.

13.6. What is PDF?

13.7. What is open-source software?

13.8. One Gb of data is approximately one million bytes. True or false? Explain.

13.9. Distinguish between:
   (a) read/write capability
   (b) read-only capability

13.10. List eight storage devices.

13.11. What is a USB flash drive?
13.12. Distinguish between:
(a) ink-jet printers
(b) laser printers

13.13. Distinguish between:
(a) points
(b) fonts

13.14. What is a modem?

13.15. What is meant by real-time?

13.16. What is a PDA and what functions can it perform?

13.17. Distinguish between:
(a) LAN
(b) WAN

13.18. Distinguish between groupware and shareware.

13.19. What is integrated software?

13.20. When are patches used?

13.21. A computer that is not connected to a network is called a _________ computer.

13.22. State the function of the following software:
(a) word processing
(b) spreadsheet
(c) database management
(d) presentation graphics
(e) litigation support
(f) document control and case management

13.23. What does text look like when it is right-justified?

13.24. State the function of the following word processing features:
(a) block move
(b) footer
(c) justification
(d) paginate
(e) word wrap

13.25. The lines of text that are right-justified are ragged on the right margin. True or false? Explain.

13.26. What is a macro?

13.27. What is the name of the list of primary and secondary authority that Word and WordPerfect allow you to create with relative ease?

13.28. What problem can metadata create?

13.29. What kind of software allows you to test what-if calculations with relative ease?

13.30. Name several major database software programs.
13.31. Name several major presentation graphics software programs.

13.32. What is a full-text search?

13.33. Computerized ticklers are often part of _________ software.

13.34. What is KM?

13.35. Where do many offices store appellate briefs from its case files?

13.36. What is CALR?

13.37. What is meant by online?

13.38. Name two major commercial online CALR systems.

13.39. Distinguish between:
(a) a database in Westlaw
(b) a library in LexisNexis

13.40. What is the Internet address of:
(a) Westlaw
(b) LexisNexis

13.41. Give some examples of primary authority found on Westlaw and LexisNexis.

13.42. Give some examples of secondary authority found on Westlaw and LexisNexis.
13.43. What do you call a question that you pose to a computer database?

13.44. State the two methods of phrasing search queries on Westlaw and LexisNexis.

13.45. In a query in Westlaw and LexisNexis, what is the function of:
   (a) A universal character [*]
   (b) A root expander [!]

13.46. What is the meaning of the following connectors in Westlaw queries:
   (a) OR
   (b) AND (&)
   (c) /s
   (d) /p
   (e) BUT NOT (%)
   (f) /n

13.47. What is the meaning of the following connectors in LexisNexis queries:
   (a) OR
   (b) AND
   (c) /s (w/s)
   (d) /p (w/p)
   (e) AND NOT
   (f) w/n

13.48. What is a major connector that can be used in limiting a search that is turning up too many cases Westlaw and LexisNexis?
13.49. (a) In Westlaw, what does a space mean? (b) In LexisNexis, what does OR mean?

13.50. How is a phrase search performed in Westlaw and LexisNexis?

13.51. List four field searches in Westlaw.

13.52. List four segment searches in LexisNexis.

13.53. What is the name of the main online citator in Westlaw and LexisNexis?

13.54. What is the Internet?

13.55. What is the function of hypertext?

13.56. List the six main domain names and state what each covers.

13.57. When is a search case sensitive?

13.58. Distinguish between:
   (a) a search engine
   (b) a directory

13.59. List some Internet search techniques.

13.60. What is a metasearch?

13.61. What does a listserv do?
13.62. What is e-mail?

13.63. What is a virus?

13.64. What is a firewall?

13.65. Why is data encrypted?

13.66. What is phishing?

13.67. What is identity theft?

13.68. What is a podcast?

13.69. How do subscribers use RSS?

13.70. What is the relationship between an intranet and an extranet?
Chapter 14: Introduction to Law Office Administration

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide. For some of the questions you will need more space to provide your answer. For such questions, use additional paper.

14.1. Approximately _________ percent of attorneys practice in private law offices.

14.2. Explain the distinction between personal liability and limited liability.

14.3. List six private sector settings where attorneys practice.

14.4. Only one attorney works in a sole proprietorship. True or false? Explain.

14.5. What is a law clerk in a law office?

14.6. Attorneys in an office-sharing arrangement are partners. True or false? Explain.

14.7. What is overhead?

14.8. Define the following categories of attorneys in a partnership:
   (a) partner
   (b) associate
   (c) staff attorney
   (d) of counsel
   (e) contract attorney

14.9. An employee hired from another law office is called a ____________ hire.
14.10. What is an equity or capital partner?

14.11. Give another name for:
(a) staff attorney
(b) contract attorney

14.12. What is meant by PC? What kinds of liability do the owners of a PC have?

14.13. What is an LLC and an LLP? What are their main tax and liability features?

14.14. What is the title of the attorney who heads a corporate law department?

14.15. What is meant by an in-house attorney?

14.16. List some functions of the law office manager or legal administrator.

14.17. List ten examples of support staff in a large law office.


14.19. What is outsourcing?

14.20. What is the function of the new file worksheet?

14.21. Accurate time records are not needed in cases where the client is not charged by the hour. True or false? Explain.

14.22. How is time mathematically recorded on the daily time sheet?


14.25. Define the following:
(a) blended hourly rate
(b) fixed fee
(c) capped fee
(d) bundled and unbundled legal services
(e) task-based billing
(f) hourly plus fixed fee
(g) discounted hourly fee
(h) contingent fee
(i) incentive billing
(j) defense contingent fee
(k) retroactive negotiated fee

14.26. What is value billing?

14.27. What are court costs?


14.29. What is meant by valuing the bill?

14.30. When valuing a bill, an increase or write-up is called a __________ __________; a decrease or write-down is called a __________ __________.
14.31. What is a client trust account?

14.32. How does a law office avoid commingling?

14.33. What is an IOLTA program?

14.34. What is an aged accounts receivable report?

14.35. What is a timekeeper productivity report?

14.36. What is the role of an record information manager?

14.37. Distinguish between:
(a) an alphabetical filing system
(b) a numerical filing system

14.38. How is bar coding used in a records management system?

14.39. A file that is no longer active in the firm is often called a __________ file.

14.40. What is KM?
Chapter 15: Informal and Formal Administrative Advocacy

Review Questions

NOTE: Check your own answers to these Review Questions. The answers are included in this study guide. For some of the questions you will need more space to provide your answer. For such questions, use additional paper.

15.1. Define advocacy.

15.2. What is a quasi-judicial proceeding?

15.3. Explain the meaning of the following informal advocacy techniques:
   (a) climb chain of command
   (b) demonstrate the exception
   (c) uncover the realm of discretion
   (d) ask for authorization

15.4. When seeking procedural due process, what is a person’s request in the following areas:
   (a) notice
   (b) hearing
   (c) cross-examination
   (d) bias
   (e) representation
   (f) relevancy
   (g) written decision
   (h) appeal

15.5. What is the role of an ALJ?

15.6. What are the requirements for being a representative of a client at a Social Security hearing?
15.7. When is a proceeding nonadversarial?

15.8. When is something on the record?

15.9. What is an affidavit?

15.10. What can occur when a party has exhausted his or her administrative remedies?
Answers to Review Questions

How to Study Law

(The Review Questions for the “How to Study Law” section are within this study guide.)

1. Your legal education must be a lifelong endeavor because there is a large body of law that is being added to and changed every day.

2. Substantive law: Nonprocedural rules governing rights and duties.

3. Procedural law: Those rules that govern the mechanics of resolving a dispute in court or in an administrative agency.

4. Examples of legal skills:
   • identify and phrase legal issues
   • interview a client
   • investigate the facts of a case
   • draft a complaint
   • digest or summarize data in a case file
   • do legal research
   • perform cite checks
   • write a search query for an online database

5. Here are several inaccurate portrayals of the law in the media:
   • Legal problems are solved by dramatically tricking witnesses on the stand to tell the truth.
   • All attorneys spend their time on cases that make the front pages.
   • Many parties to litigation each have a large team of attorneys, investigators, and experts on their side.

6. You can increase your available study time by increasing the amount of your productive time through less worrying, less repetition, less socializing, etc.
7. Active learning consists of studying by doing something other than (or in addition to) reading.

8. You cannot function in a law office without a grasp of the basics of spelling, grammar, and composition.

9. An easy way to obtain grammar help on the Internet is to type English grammar in any major search engine.

10. A readability formula may help you cut down the length of your sentences.

11. Use legal research skills to help obtain an understanding of class material that is difficult.

12. One of the most sophisticated questions an attorney or paralegal can ask is: What is the definition of that word or phrase?

13. Five places to obtain definitions of words you are studying:
   • class lectures
   • your textbook
   • legal dictionary
   • other secondary sources such as legal encyclopedias
   • the Internet

14. The study of law is in large measure an examination of ambiguity that is identified, dissected, and manipulated.

15. Examples of where paralegals may need note-taking skills:
   • interviewing a client
   • interviewing a witness
   • receiving instructions from a supervisor
• talking on the phone
• taking notes during a deposition
• taking notes from a witness during a trial

16. Abbreviations:
• burden of proof: b/p
• common law: c/l
• tort: t
• owner: o
• statute of limitations: s/l
• contract: k
• third party: tp

17. When receiving an assignment, include in your instructions notebook, diary, or journal:
• notes on what you are asked to do
• whether the tasks in the assignment are billable
• date you received the assignment
• time budget
• date actually completed
• comments from supervisors and others on what you submitted

18. For each assignment, ask for a due date and a statement of priorities.

19. Places to find a model to use as a guide for what you are asked to do include:
• closed case files
• manuals, form books, or practice texts
• Internet
20. Try to obtain feedback on an assignment before it is due.

21. Employee evaluations are often unhelpful or not given because:
   • They can be time-consuming to prepare.
   • Evaluators are reluctant to say anything negative, especially in writing.
   • Most of us do not like to be evaluated because it is too threatening to our egos.

22. To try to overcome these difficulties in order to receive meaningful evaluations:
   • Make clear that you want evaluations and that you can handle criticism.
   • Do not be defensive when criticized.
Answers to Review Questions on Chapter 1

Introduction to a New Career in Law

(The Review Questions for Chapter 1 are within this study guide.)

1.1. Eighty million lawsuits are filed every year.

1.2. The five major players in the development of paralegalism are:

• National Federation of Paralegal Associations
• National Association of Legal Assistants
• American Bar Association
• your state bar association
• your local paralegal association

1.3. CLE is continuing legal education, training in the law, usually short-term, received after one's formal training.

1.4. Meaning of abbreviations:

(a) NFPA
National Federation of Paralegal Associations

(b) NALA
National Association of Legal Assistants

(c) SCOP
ABA Standing Committee on Paralegals

(d) NALS
NALS, the Association for Legal Professionals (Note: NALS no longer says that its name stands for National Association of Legal Secretaries)

(e) AAPI
American Alliance of Paralegals

(f) IPMA
International Paralegal Management Association

(g) ALA
Association of Legal Administrators
1.5. Web sites:

(a) NFPA: www.paralegals.org
(b) NALA: www.nala.org
(c) LAMA: www.paralegalmanagement.org

1.6. Certification examinations

(a) NFPA: the PACE exam. It is an advanced exam; paralegal experience is required to take it.
(b) NALA: the CLA exam. It is an entry-level exam. No paralegal experience is required to take it. (Note: NALA also has a separate examination that does require paralegal experience to take it.)

1.7. Fourteen categories of paralegal associations:

1. nationwide (e.g., NFPA and NALA)
2. statewide (e.g., Illinois Paralegal Association)
3. regionwide encompassing more than one state (e.g., Rocky Mountain Paralegal Association)
4. regionwide within a state (e.g., South Florida Paralegal Association)
5. countywide (e.g., Santa Clara County Paralegal Association)
6. citywide (e.g., San Francisco Paralegal Association)
7. theme-specific (e.g., Houston Corporate Paralegal Association)
8. division of a bar association (e.g., Paralegal Division of the State Bar of Texas)
9. association of associations (e.g., Empire State Alliance of Paralegal Associations)
10. schoolwide (e.g., Fresno City College Paralegal Association)
11. association that is manager-focused (e.g., International Paralegal Management Association)
12. association whose membership is limited to paralegals (e.g., Orange County Paralegal Association)
13. association whose membership consists of paralegals, legal secretaries, and other nonattorneys (e.g., NALS the Association for Legal Professionals)
14. foreign (e.g., Canadian Paralegal Association)

1.8. There are no national standards regulating the paralegal field. Every state is free to regulate or to refuse to regulate a particular occupation. Most states have not imposed the kind of regulation on paralegals that would lead to greater consistency of titles within a particular state. For example, most states have not imposed minimum educational requirements or licensing. Hence (with the exception of states like California, Florida, and Maine) few restrictions exist on who can call themselves paralegals, legal assistants, or related titles.
1.9. The two main categories of paralegals are:

- traditional paralegals (employees of attorneys)
- independent contractors.

1.10. The two main categories of independent contractors are:

- those who sell their services to attorneys
- those who sell their services to the public without attorney supervision.

The latter is the larger and more controversial group.

1.11. The titles paralegal and legal assistant are synonymous. There is a trend, however, in favor of the paralegal title, particularly when legal secretaries use the legal assistant title.

1.12. Definitions:

(a) conflicts specialist

A law firm employee, often a paralegal, who helps the firm determine whether a conflict of interest exists between prospective clients and current or former clients. Also called a conflicts analyst, or conflicts technician.

(b) depo summarizer

An employee whose main job is digesting (summarizing) discovery documents, particularly depositions.

(c) transactional paralegal

A paralegal who provides paralegal services for an attorney who represents clients in transactions such as entering contracts, incorporating a business, closing a real estate sale, or planning an estate.

(d) nurse paralegal

A nurse who has become a paralegal, using his or her medical training to help personal injury attorneys locate and decipher medical records and perform other litigation tasks.

1.13. Under the following circumstances you might find an attorney working as a paralegal:

- An unemployed attorney might apply for a paralegal job.
- A disbarred or suspended attorney might be allowed to work as a paralegal.
1.14. Titles used by independent contractors who sell their services to attorneys include:

- independent paralegal
- freelance paralegal
- freelance legal assistant
- contract paralegal
- legal technician

1.15. Titles used by independent contractors who sell their services to the public without attorney supervision include:

- independent paralegal
- paralegal
- contract paralegal
- legal technician

1.16. An independent paralegal is an independent contractor (a) who sells his or her paralegal services to, and works under the supervision of, one or more attorneys or (b) who sells his or her paralegal services directly to the public without attorney supervision. Also called freelance paralegal, legal technician. (Note: In some states, however, the paralegal and legal assistant titles are limited to those who work under attorney supervision.)

1.17. Three sources of controversy over independent contractors who sell their services to the public without attorney supervision:

- A few disgruntled clients of the independent contractors have filed complaints against them that have resulted in state prosecution for the unauthorized practice of law (UPL).

- The organized bar has instigated similar UPL charges on the ground that the public needs protection from them. The bar also complains that the public might be confused into thinking that anyone called a paralegal works for an attorney. An unstated reason for opposition from the bar is the unwelcome competition that independent paralegals give to some practicing attorneys.

- A significant number of traditional paralegals resent the use of the paralegal title by independent contractors who have not had similar training.

1.18. Six entities that have written definitions of a paralegal:

- state legislatures and state courts
- state bar associations
• local bar associations
• American Bar Association
• national paralegal associations
• local paralegal associations

The most important are those written by state legislatures and state courts.

1.19. Three common characteristics of paralegal definitions in most states:
• The paralegal has special qualifications due to education, training, or on-the-job experience.
• The paralegal works under attorney supervision.
• The paralegal performs substantive legal work that the attorney would have to perform if the paralegal was not present.

1.20. Substantive legal work consists of nonclerical tasks that require legal experience or training; tasks for which paralegal fees can be awarded.

1.21. A major requirement for using the titles paralegal and legal assistant in California is that you work under the supervision of an attorney.

1.22. Hourly fees are determined, in the main, by how much time is spent on a client's case. In general, hourly attorney fees are due regardless of whether the client wins or loses. A contingent fee is dependent on the outcome of the case; it is paid only if the case is successfully resolved by litigation or settlement.

1.23. Fee payment distinction:
• American rule: The winning party cannot recover attorney fees and costs of litigation from the losing party unless (a) a statute authorizes such payment, (b) a contract between the parties provides for such payment, or (c) the court finds that the losing party acted in bad faith in the litigation.
• English rule: The losing side in litigation must pay the winner's attorney fees and costs.

1.24. A statutory-fee case is a case involving a special statute that gives a judge authority to order the losing party to pay the winning party's attorney and paralegal fees.
1.25. The process of forcing one party to pay another's attorney fees and costs in litigation is called fee shifting.

1.26. In a statutory-fee case, the court uses a lodestar to calculate attorney fees to the winning party. The number of reasonable hours spent on the case is multiplied by a reasonable hourly rate. Other factors might also be considered above the lodestar in setting the fee, e.g., the quality of representation, any delay in receiving payment, and the risk at the outset of the litigation that the prevailing attorney will receive no fee.

1.27. Paralegal fees are fees that attorneys can collect for the nonclerical work performed by their paralegals on client cases.

1.28. To receive paralegal fees, some courts require attorneys to demonstrate that (1) the services performed by the nonlawyer personnel are legal in nature; (2) the performance of these services are supervised by an attorney; (3) the qualifications of the person performing the services are specified in the request for fees in sufficient detail to demonstrate that the person is qualified by virtue of education, training, or work experience to perform substantive legal work; (4) the nature of the services performed are specified in the request for fees in order to allow the reviewing court to determine that the services performed were legal rather than clerical; (5) as with attorney time, the amount of time expended and set forth is reasonable; and (6) the amount charged reflects reasonable community standards for charges by that category of personnel.

1.29. Statutory fees have been reduced or disallowed by courts because attorneys have performed paralegal tasks and paralegals have performed secretarial or clerical tasks.

1.30. *Missouri v. Jenkins* held that when paralegal fees must be paid by the losing side, they are calculated by the prevailing market rate for paralegals.

1.31. In an important statement in *Missouri v. Jenkins*, the Court said: “Of course, purely clerical or secretarial tasks should not be billed at a paralegal rate, regardless of who performs them.”

1.32. The statement (After *Missouri v. Jenkins*, paralegal fees are to be calculated at the prevailing market rate in every case.) is false. The following categories of cases are not required to adopt the conclusion of *Jenkins*: federal cases interpreting federal statutes other than the Civil Rights Act and state cases interpreting state statutes. A state court could refuse to award paralegal fees or, if it awards paralegal fees, it could calculate them at actual cost rather than at the prevailing market rate.

1.33. Six categories of job titles proposed by IPLA for a large law office:

- paralegal clerk [legal assistant clerk]
- paralegal [legal assistant]
- senior paralegal [senior legal assistant]
• supervising paralegal [supervising legal assistant]
• case manager
• paralegal manager [legal assistant manager, paralegal administrator, director of paralegal services]

1.34. Factors influencing a paralegal’s salary (in addition to his or her competence) include: the experience of the paralegal, the size of the office where he or she works, whether the office is a private law firm or a corporation, whether the office is a government or legal service/legal aid office, whether the office is in a large city, and whether the attorneys in the office understand the value of paralegals.

1.35. Leveraging is the ability to make a profit from the income-generating work of others.

1.36. The requirement to bill a minimum number of hours is called a billable hours quota.

1.37. When a law firm bills for paralegal time, the paralegal becomes a profit center in the firm, as opposed to simply being part of the firm’s overhead.

1.38. Under the Rule of Three, a firm must charge clients $100 per hour ($120,000 divided by 1,200) for paralegal time if the firm wants $40,000 in profit from a paralegal who makes $30,000 a year and bills 1,200 hours a year.

1.39. Factors affecting profitability of paralegals that offset the Rule of Three include:
• A high turnover of paralegals in the office often means that the office will have substantially increased overhead costs in recruiting and orienting new paralegals.
• The extent to which attorneys have more billable time because of a paralegal’s performance of nonbillable tasks. The more nonbillable tasks a paralegal performs, the less time he or she will have available to devote to billable tasks. This, however, does not mean that the paralegal is a drain on profits. A nonbillable task that a paralegal performs is often a task that the attorney does not have to perform. This, of course, enables the attorney to direct more of his or her efforts to fee-generating (i.e., billable) matters.

1.40. Nonbillable tasks that paralegals sometimes perform include recruiting new employees, helping to maintain the law library, organizing the office’s closed case files, and doing most of the work on certain kinds of cases that an attorney would normally do for free (e.g., probating the estate of the attorney’s brother-in-law).

1.41. A realization rate is the hourly rate that a law office actually collects from the billable hours submitted by an attorney or paralegal.
1.42. Bar association committees that have extensively promoted paralegals include:

- bar association paralegal committees and
- bar association committees on legal economics and law office management.

1.43. In England: (a) barristers handle the bulk of litigation in the higher courts; (b) solicitors handle the day-to-day problems of the public; and (c) legal executives were once the equivalent of the American paralegal.

1.44. When friends and relatives find out that a paralegal student is studying law, there is a danger that they will ask the student questions that call for legal advice. If the student answers the questions, he or she may be engaging in the unauthorized practice of law.
Answers to Review Questions on Chapter 2

Paralegal Employment

(The Review Questions for Chapter 2 are within this study guide.)

2.1. Most paralegals today work in private law firms.

2.2. Major settings where paralegals work:
   a. private law firms
   b. law departments of corporations, banks, insurance companies, and other businesses
   c. government
   d. legal service/legal aid offices
   e. special interest groups or associations
   f. criminal law offices
   g. freelance or independent paralegals
   h. service companies/consulting firms (also related fields such as law libraries and paralegal schools)

2.3. The statement is false. Paralegals in large law firms tend to specialize and therefore may have less variety in their assignments.

2.4. The one client of attorneys and paralegals who work in the law department of a corporation is the corporation itself.

2.5. Four kinds of government offices in which paralegals might work:
   (a) office of chief government attorney
   (b) office of chief attorney of an individual agency
   (c) office of chief attorney for units within an individual agency
   (d) office of individual legislators, legislative committees, office of the legislative counsel, legislative drafting office

2.6. The paralegal specialist is the major civil service job classification for paralegals who work for the federal government and for some state governments.
2.7. False. The paralegal specialist performs “legal support functions which require discretion and independent judgment” according to the U.S. Office of Personnel Management (OPM), the federal agency in charge of hiring standards within the federal government.

2.8. civil rights analyst, claims examiner, clerk of court, contract specialist, contracts examiner, criminal investigator, employee benefits specialist, environmental protection specialist, equal employment opportunity specialist, equal opportunity assistant, freedom of information act/privacy act specialist, hearings and appeals officer, intelligence analyst, internal revenue agent, land law examiner, legal assistant, legal clerk, legal technician, public utilities examiner, social services representative, tax examiner unemployment insurance specialist, wage and hour compliance specialist, workers’ compensation examiner.

2.9. For the title of a paralegal position in state government in your state, see Appendix 2.B at the end of chapter 2, which provides a state-by-state listing.

2.10. The main source of income of a legal service office is government grants.

2.11. An IOLTA program (Interest on Lawyers’ Trust Accounts) that helps fund legal services for the poor with funds that attorneys are required to turn over from interest earned in client trust accounts containing client funds.

2.12. Some of the duties of a public benefits paralegal include interviewing clients for eligibility for free legal services; investigating claims of discrimination; representing clients at SSI (Supplemental Social Security) hearings; assisting individuals who are representing themselves in uncontested divorces; assisting attorneys to prepare for an appeal of a denial of benefits; assisting the office collect data needed for quarterly reports to a funding source.

2.13. An individual who does not have sufficient funds to purchase services such as legal services is indigent.

2.14. Pro bono services are services that are provided for the public good (pro bono publico) without fee or compensation. Sometimes also applied to services given at a reduced rate. Shortened to pro bono.

2.15. Examples of special interest groups or associations that might use or employ paralegals include unions, business associations, environmental protection groups, taxpayer associations, consumer protection groups, trade associations, and citizen action groups.

2.16. The system by which members of a group pay for legal services before any legal problems arise is called prepaid legal services. It is a form of legal insurance.
2.17. Titles for government attorneys in criminal cases:
(a) prosecutors
(b) district attorneys
(c) attorneys general

2.18. If a defendant in a criminal case is indigent, the defendant might be represented by a public defender.

2.19. Two national associations that have promoted the use of paralegals in criminal law:
(a) National District Attorneys Association
(b) National Legal Aid & Defender Association

2.20. A freelance paralegal is an independent contractor who sells his or her paralegal services to, and works under the supervision of, one or more attorneys.

2.21. Outsourcing is paying an outside company or service to perform tasks usually performed by one's own employees.

2.22. Examples of work performed by service companies or consulting firms: design litigation graphics, select a computer system for a law office, design and manage a computer-assisted document control system for a large case, help establish a branch office, design a filing or finance system, incorporate a new company in fifty states, conduct a trademark search, digest discovery documents, undertake a UCC search and filing in fifty states.

2.23. A legal nurse consultant (LNC) is a nurse who provides support services to attorneys in cases such as medical malpractice and products liability by obtaining, summarizing, and interpreting medical records.

Help a radio station apply for a license—communication law.
Draft minutes of board-of-directors meeting—corporate law.
Research blue sky requirements—corporate law.
Gather facts on eligibility for diversion—criminal law.
Draft a Keogh plan—employee benefits law.
Research questions on water pollution—environmental law.

Collect the assets of a decedent—estates, trusts, and probate law.

Help a foreigner become a citizen—immigration law.

Investigate infringement of a trademark—intellectual property law.

Arrange for a closing—real estate law.

Handle a claim due to injury on the job—workers’ compensation law.

2.25. A paralegal who helps a law firm determine whether conflicts of interest exist is called a conflict specialist (also conflicts analyst and conflicts technician).

2.26. A paralegal who works in the area of oil and gas law is called a land technician or landman.

2.27. Public benefits law is the area of the law that concerns obtaining government benefits such as public housing and welfare.

2.28. In tort cases, PI refers to personal injury.

2.29. False. The best time to begin is now. In the process of looking for work, you will obtain information about available options.

2.30. A job bank is a service that lists available jobs, sometimes available only to members of an organization.

2.31. (a) The newsletter or journal of the National Federation of Paralegal Associations is the National Paralegal Reporter.

(b) The newsletter or journal of the National Association of Legal Assistants is Facts and Findings.

(c) The newsletter or journal of NALS is @Law.

2.32. An informational interview is an opportunity to gain a better understanding of an area of law or kind of practice. It is not a job interview.

2.33. Networking is establishing contacts with people who might become personal or professional resources.

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2.34. You approach an attorney about paralegal employment even if you know the attorney is not hiring paralegals to ask if the attorney knows of other attorneys who might be hiring.

2.35. (a) The directory published by the National Association of Law Placement is the National Directory of Legal Employers. (b) You can find it as a pamphlet online at www.nalp.org (www.nalpdirectory.com).

2.36. Kinds of attorneys with whom you may have direct or indirect contact include personal friends, friends of friends, attorneys you have hired, attorneys your relatives have hired, attorneys your former employers have hired, attorneys your friends have hired, teachers, politicians, and neighbors.

2.37. Headings in newspaper want ads that you might check include paralegal, legal assistant, research assistant, legislative aid, law library assistant, proofreader, administrator.

2.38. A want ad that does not give the name of the prospective employer is called a blind ad.

2.39. You should call a firm that has placed an ad for a secretary even though you do not want to become a secretary to find out if the firm might consider hiring a paralegal, and if they will not, to ask for leads to firms that might be hiring paralegals. Some might want to take the secretarial position to get their foot in the door and hope that they can graduate into a paralegal position later.

2.40. A staffing agency is an employment agency that places temporary workers, often directly paying the workers and handling all of the financial aspects of the placement.

2.41. Two national directories of attorneys:
   (a) Martindale-Hubbell Law Directory (www.martindale.com; www.lexis.com)
   (b) West's Legal Directory (directory.findlaw.com; www.westlaw.com)

2.42. The Internet allows you to:
   (a) find paralegal want ads
   (b) locate information about a prospective employer
   (c) post your own résumé
   (d) obtain help on résumé writing and interviewing skills
2.43. False. Gear each résumé you write to the particular job sought, with particular emphasis on any buzzwords found in the want ad.

2.44. A résumé is an advocacy document in that it must “sell” you. You must try to find out what skills or background the prospective employer wants to see in a résumé of an applicant. You need to do background research on the employer and structure your résumé to the needs of the employer. All of these steps are advocacy steps.

2.45. All factual data about you on your résumé should be verifiable if checked.

2.46. False. The career objective should also be phrased in terms of the needs of a particular employer.

2.47. False. List them in reverse chronological order.

2.48. When you cover prior employment experience on your résumé, give prominence to specific duties and skills that are directly relevant or related to the position you are seeking.

2.49. Examples of action verbs that are preferred on a résumé include created, administered, built, supervised, designed, planned, arranged.

2.50. If a résumé said that you “designed systems, drafted complaints, and enjoy computer work,” the résumé would have violated the grammatical rule on parallelism.

2.51. A functional résumé might be preferable to a chronological résumé when you want to downplay large gaps in education; when you are making a radical change in careers; and when your skills were not gained in paralegal education, training, or employment.

2.52. Information you should try to obtain about an office through background research includes why the office has decided to hire a paralegal now, the kind of law the office practices, the management structure of the office, how old the office is, the kinds of clients in the office.

2.53. Find out if the office (or individuals within it) have written any blogs (pronounced “blawgs”) about any aspect of the office.

2.54. The cover letter should state how you learned about the office, highlight and amplify relevant parts of the résumé as they relate to the job you are seeking, explain why you are qualified, and communicate a sense of enthusiasm about the position.
2.55. Examples of writing samples you could generate on your own include a short memorandum of law, a pleading, a set of interrogatories, articles of incorporation and bylaws, an analysis of a recent court opinion, an intake memorandum, and an article for a paralegal newsletter.

2.56. People who might conduct a job interview include the law office manager, managing attorney, supervising attorney for the position, paralegal supervisor, staff paralegal, and a combination of the above.

2.57. Six categories of job interview questions: open-ended questions, closed-ended questions, softball questions, tension questions, hypothetical questions, potentially illegal questions.

2.58. Things you should bring with you to a job interview include: extra copies of the résumé, writing samples, paralegal certificate, a list of references, letters of recommendation, school transcript, performance reviews at other jobs, copies of awards or other recognition of achievement, proof of attendance at continuing legal education sessions, statement of membership in professional associations.

2.59. A paralegal can avoid contaminating a law firm where he or she is considering employment by disclosing the names of clients for whom he or she worked in prior employment and volunteer settings. This will enable the prospective employer to determine whether a conflict of interest might exist with the employer’s current clients.

2.60. Items to include in a follow-up letter include a statement of thanks for the interview, a statement that you enjoyed the interview and the opportunity to learn about the office, a statement that you are still interested in the position, a brief restatement of why you are qualified, any needed clarifications, and references or writing samples that were requested.

2.61. Characteristics of a writing sample:
(a) It is your own work.
(b) It is clearly and specifically identified.
(c) It is typed.
(d) It contains no spelling or grammar errors.
(e) It has a professional appearance.
(f) It has been evaluated by someone you respect.
(g) You feel that it is a high-quality product.
(h) It does not violate anyone’s privacy or confidentiality.

2.62. One way to ensure that a writing sample does not breach confidentiality is to redact any client-identifying information in it.
Answers to Review Questions on Chapter 3
On-the-Job Realities: Assertiveness Training for Paralegals

(The Review Questions for Chapter 3 are within this study guide.)

3.1. Fourteen percent of a forty-hour week is wasted because of poor communication.

3.2. Factors that can cause a communications breakdown include distractions, time pressures, work overload, embarrassment over asking for clarification, personality conflicts, equipment breakdown, physical impairment.

3.3. Paralegal frustration on the job is in large measure due to unrealistic expectations about the career in general and about a particular job.

3.4. False. Offices are changing all the time even though they may appear to be rigid.

3.5. WIP (work in progress) is a list of tasks on which you are currently working.

3.6. False. It is impossible to avoid. Office politics is the way people work together toward common goals. A paralegal should avoid ineffective, negative office politics.

3.7. Some paralegals resist the idea of selling themselves because selling oneself is unpleasant to them. They feel that good work speaks for itself. The danger of this approach, however, is that your value and contribution may go unrecognized.

3.8. An effective paralegal evaluation form constructively identifies strengths and weaknesses and leads to specific suggestions on eliminating the latter. Ideally it is one designed with the participation of the paralegal.

3.9. In addition to regularly scheduled evaluations, ask for a project evaluation at the conclusion of major tasks.

3.10. A pre-evaluation memo is something you write and submit to your supervisor before your next evaluation. It lists the major cases or projects you have worked on since the last evaluation, special accomplishments, etc.

3.11. After an evaluation, set measurable goals in anticipation of the next evaluation.
3.12. Some attorneys can be:
(a) autonomous (often work alone)
(b) critical (focuses on what is wrong or on what might go wrong)
(c) competitive (inclined to confrontation)

3.13. A person is nonassertive if he or she never complains and refuses to sell him or herself.

3.14. An assertive person lets people know his or her needs. When he or she complains, it is done forcefully, but diplomatically.

3.15. A person's realization rate is the hourly rate that a law office actually collects from the billable hours submitted by an attorney or paralegal.

3.16. Flextime is a system that allows employees some control over aspects of their work schedule such as the times that they arrive at and leave from work during the day.

3.17. A daily diary or journal can help avoid misunderstanding. Use it to collect data that will be relevant to a request for a salary increase.

3.18. Five categories of documents and data that you should keep in your career development file: résumés, job history, work accomplishments, professional activities, and conflict-of-interest data.

3.19. CLE (continuing legal education) is training in the law (usually short term) that a person receives after completing his or her formal legal training.

3.20. Effective supervisors give clear instructions, avoid overburdening a worker, provide reasonable deadlines, provide adequate training, delegates meaningful tasks, gives constructive evaluations, encourages advancement, etc.

3.21. To build a good working relationship with a secretary, give accurate, detailed instructions with reasonable deadlines; avoid waiting until the last minute to assign work; limit interruptions; recognize the secretary's contribution; etc.

3.22. NALS, the Association for Legal Professionals.
3.23. Two kinds of sexual harassment:

(a) quid pro quo harassment: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly is made a condition of employment decisions such as hiring or promotion.

(b) hostile environment harassment: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly and unreasonably interferes with an individual’s work performance or creates an intimidating, hostile, or offensive work environment.

3.24. A system is an organized way of accomplishing a task.

3.25. 

(a) Select the task to be systematized.

(b) Identify the various components of the task.

(c) Write a manual describing the task, providing checklists of things to be done, sample forms, etc.

(d) Photocopy frequently used statutes, court rules, or other laws and place them in an appendix to the manual.

(f) Delegate components of the task to the members of the team.

3.26. A law office system can be ineffective because the participants do not believe in the system, the system exists only on paper, no one has made it work, etc.

3.27. Listservs are ways for different paralegals all over the country (and world) to communicate with each other about specific career or practice concerns.

3.28. Networking is establishing contacts with people who might become personal or professional resources.

3.29. Go up to strangers at a meeting or function and introduce yourself. Do not sit with people you already know. Ask people you know to introduce you to people you do not know. Have some inexpensive business cards made so that you can hand them out. At the end of the day, use a notebook to write out the names and addresses of the people you have met that day; indicate what they do, how they can be reached, whether they have any connection to the law, and whether they might be a future lead to employment. Let yourself be available to help meet the networking outreach of others.
Answers to Review Questions on Chapter 4

The Regulation of Paralegals

(The Review Questions for Chapter 4 are within this study guide.)

4.1. Six ways paralegals could be regulated:
(a) laws on unauthorized practice
(b) state licensing
(c) self-regulation
(d) Fair Labor Standards Act
(e) tort law
(f) ethical rules

4.2. Accreditation is the process by which an authoritative organization (usually nongovernmental) evaluates and recognizes an institution or a program of study as meeting specified qualifications or standards.

4.3. Regulation is any governmental or nongovernmental method of controlling conduct.

4.4. False. Accreditation is a process of approving schools or programs of study. Persons are not accredited. Persons can be licensed or otherwise given special authorization to do something.

4.5. Conditions often imposed as a condition of certification:
(a) graduating from a school or training program and/or
(b) passing a standard exam and/or
(c) completing a designated period of work experience

4.6. When certification comes from a school, some prefer to say that the person has been certificated.

4.7. A code is any set of rules that regulates conduct.

4.8. Licensure is the process by which an agency of government grants permission to persons meeting specified qualifications to engage in an occupation and often to use a particular title. The permission is the license.
4.9. Limited or specialty licensure is the process by which an agency of government grants permission to persons meeting specified qualifications to engage in designated activities that are customarily (but not always exclusively) performed by another category of license holder.

4.10. Registration or enrollment is the process by which individuals or institutions list their names on a roster kept by an agency of government or by a nongovernmental organization.

4.11. It is a crime in many states to violate the law on the unauthorized practice of law.

4.12. Tests different courts have used to define the practice of law:

(a) professional judgment test
(b) general public/personal relationship test
(c) complex/difficult question test
(d) important rights/public protection test
(e) traditional areas test
(f) commonly understood test
(g) incidentals test

4.13. Professional Judgment Test. Does the service require an attorney's professional judgment, meaning the special training and skills of an attorney? If the answer is yes, the service is the practice of law. Example: questioning a witness at a deposition. The professional judgment test is the most widely used test in the country.

4.14. General Public/Personal Relationship Test. Is the service offered to the general public rather than to a specific person? If the answer is yes, the service is not the practice of law. Example: an author writes a book on how to draft a will but does not provide personal attention to any individual buyer of the book. If, however, the services connects (applies) the law to the facts of a specific person, the service is the practice of law.

4.15. Complex/Difficult Question Test. Does the service seek to resolve a complex or difficult question of law that is beyond the capability of the average layperson? If the answer is yes, the service is the practice of law. Example: giving legal advice on an involved commercial transaction.

4.16. Important Rights/Public Protection Test. Does the service pertain to important legal rights that can be protected only by someone with special legal skills? If the answer is yes, the service is the practice of law. Example: giving legal advice on a divorce.
4.17. **Traditional Areas Test.** Is the service one that attorneys have traditionally performed? If the answer is yes, the service is the practice of law. Example: drafting a separation agreement in a divorce.

4.18. **Commonly Understood Test.** Is the service commonly understood to be the practice of law? If the answer is yes, the service is the practice of law. Example: making a motion in court. Preparing tax returns, on the other hand, is not commonly understood to be the practice of law.

4.19. **Incidental Test.** Is the service an adjunct to (incidental to) what another business routinely provides? If the answer is yes, the service is not the practice of law. Example: the preparation of a form sales contract by a real estate agent for which a separate fee is not charged.

4.20. The essence of professional judgment is the educated ability to relate the general body and philosophy of law to a specific legal problem of a client.

4.21.  
(a) attorney in fact: one authorized to act in place of or for another, often in a business transaction  
(b) power of attorney: (1) a document that authorizes another to act as one's agent or attorney in fact; (2) the authority itself

4.22. **Three major kinds of activities in the practice of law:**  
(a) representing someone in court or in an administrative agency proceeding  
(b) drafting legal documents for someone  
(c) giving someone legal advice

4.23. False. Practicing law usually means to provide legal services for another. When a person tells him or herself what the law is (e.g., how to claim a certain deduction on his or her tax return), we do not say that this person is practicing law.

4.24.  
(a) Legal information is general and not based on the facts of a specific person's legal problem. Legal information is basic data about legal rights and remedies.  
(b) Legal advice is the application of the law to the facts of a specific person's legal problem.
4.25. The question of whether a paralegal is practicing law when he or she goes to a land records office, traces the title to a parcel of land, and draws conclusions on the legal validity of the title, depends on what the paralegal does with the conclusions.

- If they are communicated directly to a client, the paralegal is practicing law.
- If they are communicated to a supervising attorney, the paralegal is not practicing law. (Or, the paralegal is engaged in the authorized practice of law. The paralegal is stating legal conclusions about the facts of a specific client. But this practice of law is authorized. Paralegals have authority to provide legal conclusions to their attorney supervisors.)
- If the paralegal uses the conclusions solely for his or her own personal case (rather than for someone else), he or she is not practicing law.

4.26. True, if there is no personal assistance on what should go in the forms. Note, however, that if the forms deal with a legal matter where nonattorneys can practice (e.g., Social Security), they can give such personal assistance.

4.27. False. Such sales would be illegal only if there is personal help given to particular people using the video. This does not appear to be the case here since everything is done through the mail and there does not appear to be any communication on particular facts.

4.28. The official reason Rosemary Furman was prosecuted is that she was practicing law illegally by selling forms and by giving assistance and advice on how to fill out the forms. Some, however, say that the real reason she was prosecuted is that she was an economic threat to the bar.

4.29. There are bar associations that have negotiated a treaty or statement of principles with groups such as claims adjusters and real estate agents to work out boundary lines concerning the practice of law.

4.30. The U.S. Supreme Court opinion that held that the antitrust laws apply to attorneys and that minimum fee schedules violate these laws was Goldfarb v. Virginia State Bar.

4.31. The following definition of the practice of law was proposed by the American Bar Association propose but ultimately withdrawn because of opposition by the Justice Department and Federal Trade Commission: The application of legal principles and judgment with regard to the circumstances or objectives of a person that require the knowledge and skill of a person trained in the law.

4.32. False. The statement is true for the vast number of courts in the country, but there are a few lower courts in some states that allow nonattorneys to provide full or limited representation of clients in their courts. This, however, is rare.

4.33. True, but in these states the paralegal’s role is very limited.
4.34. The adversary system is a method of resolving a legal dispute whereby the parties (alone or through their advocates) argue their conflicting claims before a neutral decision maker.

4.35. Lawyers must be advocates for their clients. The role of the judge and jury is to ascertain the truth.

4.36. Under Johnson v. Avery (a) a prison must allow one inmate to give legal assistance to another inmate in the prison when there are no alternatives to this assistance and (b) the assistance of the inmate cannot include court representation.

4.37. Citizens have a constitutional right of access to the courts. If attorneys won’t provide this access (because there are not enough attorneys or because the fees are not high enough to attract attorneys), alternatives to attorneys arguably must be made available.

4.38. True. Some administrative agencies can establish their own requirements on who can practice before them. Under this authority, they can allow nonattorney representation.

4.39. The federal administrative procedure act provides that a person who must appear before an agency is entitled to be represented and advised by an attorney, or by other qualified representative, if permitted by the agency.

4.40. (a) Registered agents are authorized to practice before the U.S. Patent and Trademark Office.

(b) Enrolled agents and certified public accountants are authorized to practice before the Internal Revenue Service.

4.41. The Social Security Administration will deduct the attorney fee from the client’s Social Security award and give the fee directly to the attorney. Nonattorney representatives, however, must collect their fee from the client; the agency will not deduct it from the award. In 2005, however, the agency began a demonstration project to allow specified nonattorneys to receive fees directly from the agency.

4.42. Sperry v. State of Florida ex rel the Florida Bar

4.43. The Supremacy Clause of the U.S. Constitution is the basis of the decision that a state bar association cannot prevent a nonattorney from practicing law before a federal agency when such activity is authorized by the agency.

4.44. An occupation may want to be licensed:

(a) to protect the public

(b) to enhance the occupation’s own image
4.45. 
(a) Licensure is the process by which an agency of government grants permission to persons meeting specified qualifications to engage in an occupation and often to use a particular title.

(b) Certification is the process by which a nongovernmental organization grants recognition to a person who has met the qualifications set by that organization.

4.46. The main reason many oppose broad-based licensing for traditional paralegals is that the public doesn’t need the protection of such a license. It is already protected by the supervision of an attorney.

4.47. Paralegals are already subject to oversight by their attorney supervisors. There was no need, therefore, for a court-directed licensing system.

4.48. To be called a paralegal or legal assistant in California, you must:

• work under the supervision of an attorney,

• meet stringent education qualifications (e.g., complete an approved paralegal program with a designated number of law-related courses or have a baccalaureate degree and one year of law-related experience under the supervision of a California attorney), and

• attend mandatory continuing legal education (CLE) (four hours of ethics training every two years and four hours every two years in general law or the law of a specialty).

4.49. Since most members of the California Independent Paralegal Association do not work under attorney supervision, its members could no longer call themselves paralegals. Most are now called legal document assistants.

4.50. False. A report of an ABA Commission (on p. 52) once recommended limited licensing. But the ABA itself never adopted this recommendation.

4.51. 
(a) A self-represented person is a person who represents him or herself, with or without assistance from someone else.

(b) A document preparer is a person who assists someone in the preparation of forms and documents using information provided by a self-represented person.

(c) A paralegal is a person who performs substantive work or provides advice to a client under the supervision of an attorney or for which an attorney is accountable.

(d) A legal technician is a person who provides advice or other substantive legal work to the public without attorney supervision and for which no attorney is accountable.
4.52. A person acts pro se or in properia persona (pro per) when that person represents him or herself.

4.53. The Practice of Law Board in Washington State will determine where the role of the paralegal and other nonattorneys might be expanded through limited licensing. It will make its recommendations to the Washington State Supreme Court.

4.54. Duties of the Limited Practice Officer (LPO) in Washington include selecting and preparing approved legal documents for designated property transactions such as closing a loan, extending credit, or transferring land.

4.55. NALA feels that the proposals for limited licensing do not give enough guidelines to identify which cases nonattorneys are competent to handle. Also, limited licensing may lead to open warfare with attorneys and to public disillusionment with the legal system.

4.56. The two-tier license proposal of NFPA consists of an entry-level paralegal license and a specialty paralegal license.

4.57. (a) independent contractors in California who are not allowed to call themselves paralegals but who can provide assistance to the public without attorney supervision: legal document assistant (LDA) and unlawful detainer assistant (UDA)

(b) independent contractors in the every state who are not allowed to call themselves paralegals but who can provide assistance to the public without attorney supervision: bankruptcy petition preparer (BPP)

4.58. Reforms in the practice of law:
(a) pro bono work
(b) simplified forms
(c) Internet self-help centers
(d) court facilitators
(e) prepaid legal services
(f) attorney advertising
(g) publicly funded legal services
(h) modest means panels
(i) traditional paralegals
(j) limited licensing (a possibility in the future)

4.59. An attorney or paralegal who donates free time and services is engaged in pro bono work.

4.60. A prepaid legal services program is one in which participants pay a set amount each month for designated legal services that may become needed.

4.61. When paralegals can join a bar association, they are called associate members of the association, committee, or section; affiliate members of the association, committee, or section; or a full member of a legal assistant division.

4.62. National certification programs for paralegals:
(a) CLA/CP: National Association of Legal Assistants
(b) RP/Pace Registered Paralegal: National Federation of Paralegal Associations
(c) PP: NALS, the Association for Legal Professionals
(d) AACP: American Alliance of Paralegals, Inc.

4.63. The CLA/CP certification of the National Association of Legal Assistants is entry-level.

4.64. Only the CLA exam of NALA is entry-level.

4.65. False. Three of the four certification require passage of an examination (CLA/CP, RP, and PP), but AACP certification does not.

4.66.
(a) CFLA: Florida
(b) LCP: Louisiana
(c) CAS: California
(d) Board Certified Legal Assistant: Texas
(e) NCCP: North Carolina
(f) DCP: Delaware
(g) OSBA Certified Paralegal: Ohio

4.67. None of the certification programs (national or state) is required for employment; they are all voluntary.

4.68. False. The ABA favors certification of *advanced* competence only.


4.70. False. The department believes paralegals are *not* exempt, except primarily for those managerial paralegals who supervise other employees.

4.71. None of these three factors determine whether a paralegal is exempt.

4.72. White-collar exemptions under the FSLA:
(a) executive exemption
(b) professional exemption
(c) administrative exemption

4.73. A tort is a civil wrong (other than a breach of contract) that causes injury or other damage for which our legal system deems it just to provide a remedy such as compensation.

4.74. A paralegal is personally liable for the torts he or she commits. Under the doctrine of *respondeat superior*, employers can be *vicariously* liable for paralegal torts committed within the *scope* of the paralegal’s employment.

4.75. False. The client can sue the paralegal and the latter’s employer. A paralegal is individually liable for his or her torts.

4.76. Paralegal assaults a client concerning a dispute over the payment of the fee owed to the firm where the paralegal works.
4.77. Has the client been injured because of a failure to use the knowledge and skill commonly possessed used by a member of the profession in good standing? This constitutes reasonable care by an attorney in good standing.

4.78. Paralegals have often been accused of improperly notarizing signatures under pressure from a supervising attorney.

4.79. (a) malicious prosecution: a tort with the following elements: (a) to initiate or procure the initiation of civil or criminal legal proceedings; (b) without probable cause; (c) with malice or an improper purpose; (d) the proceedings terminate in favor of the person against whom the proceedings were brought.

(b) abuse of process: a tort consisting of (a) the use of a civil or criminal process, (b) for a purpose for which the process is not designed, (c) resulting in actual damage.

4.80. Going bare means practicing without having malpractice insurance.

4.81. Two kinds of malpractice insurance policies:

(a) occurrence policy

(b) claims-made policy

4.82. Insurance companies favor claims-made policies since they cover only claims filed (made) during the period the policy is in effect. Under an occurrence policy, an insurance company would have to pay a claim if it arose (i.e., if the covered negligence or other wrongdoing took place) while the policy was in effect even if the claim was not filed (made) until long after the policy ended.

4.83. False. The paralegal must check the employer's policy to find out if he or she is covered.
Answers to Review Questions on Chapter 5
Attorney Ethics and Paralegal Ethics

(The Review Questions for Chapter 5 are within this study guide.)

5.1. Ethics are rules that embody standards of behavior to which members of an organization must conform.

5.2. False. Many organizations have ethical rules that are not enforced by meaningful penalties for violations.

5.3. False. A paralegal association may be able to kick a paralegal out if its association if the paralegal violates the association's ethical code, but this will not necessarily affect the paralegal's right to work as a paralegal.

5.4. Common rationalizations or excuses for unethical conduct:
(a) It's always done.
(b) The other side does it.
(c) The cause of our client is just.
(d) If I don't do it, I will jeopardize my job.

5.5. Examples of bar associations:
(a) national bar association: American Bar Association
(b) state bar association: New York State Bar Association
(c) local bar association: Bar Association of the City of New York
(d) specialty bar association: American Association for Justice

5.6. If a bar association is integrated (also called mandatory or unified), then membership is required as a condition of practicing law in the state.

5.7. False. The ABA is a voluntary national body. It merely proposes ethical standards to the states, which regulate attorneys.

5.9. Many states have adopted all or portions of the ABA Model Rules in their state ethical codes. The Model Rules are no more than persuasive recommendations to the states.

5.10. In the ABA Model Code:

(a) A DR is a Disciplinary Rule, which is a mandatory statement or rule.

(b) An EC is an Ethical Consideration, which is a behavioral guideline.

5.11. Possible sanctions on attorneys for unethical conduct: (a) disbarment, (b) suspension, (c) reprimand, and (d) probation

5.12. Paralegals cannot be directly sanctioned for violating the ethical rules governing attorneys. Indirectly, however, the rules apply to paralegals since attorneys can be ethically sanctioned for the misconduct of paralegals who work for them.

5.13. An MDP is a partnership consisting of attorneys and nonlegal professionals that offers legal and nonlegal services.

5.14.

(a) ABA: Model Guidelines for the Utilization of Paralegal Services

(b) NFPA: Model Code of Ethics and Professional Responsibility and Guidelines for Enforcement

(c) NALA: Code of Ethics and Professional Responsibility

(d) NALS: Code of Ethics

5.15. Ethical competence is using the knowledge and skill reasonably necessary to represent a particular client.

5.16.

(a) clinical education: a training program in which students work on real cases under attorney supervision

(b) CLE: Clinical legal education is training in the law (usually short-term) that a person receives after completing his or her formal legal training.

5.17. Attorney incompetence can led to charges of a violation of ethics and negligence.
5.18. The ethical danger in working for a busy attorney who has a great deal of confidence in a paralegal's ability is inadequate supervision. The attorney may not take the time needed to check the paralegal's work.

5.19. An attorney must act with reasonable diligence and promptness in representing a client. Reasonable efforts must be made to expedite litigation.

5.20. False. Harm or actual damage is not an element of a finding of ethical misconduct.

5.21. Factors that determine the reasonableness of a fee:
(a) the amount of time and labor involved
(b) the complexity of the case
(c) customary fee in the locality for this kind of case
(d) the experience and reputation of the attorney

5.22. The contract in which the client hires the attorney is called an attorney-client fee agreement.

5.23. An example of illegal price fixing by attorneys: minimum fee schedules violate the antitrust laws.

5.24. Contingent fees are unethical in family law cases when the fee is dependent on securing a divorce, or upon the amount of alimony, or support, or property settlement in lieu of alimony or support.

5.25. Fee splitting is when a single client bill covers the fee of two or more attorneys who are not in the same firm. The fee is unethical if the amount is unreasonable and if the client does not consent. Also, the share of the fee received by each attorney must be in proportion to his or her work unless each attorney agrees to joint malpractice responsibility for the case.

5.26. A forwarding fee (also called a referral fee) is a fee paid by one attorney to another for referring a client.

5.27. A fee cap is a maximum amount or maximum percentage that can be charged as a fee in particular kinds of cases.

5.28. Law firms generate their resources from client fees. It is not improper for a paralegal to be paid out of these fees so long as the paralegal is not given a portion of a fee paid by a particular client.
5.29. Paralegals cannot be compensated for referring business to an attorney.

5.30. An office bills a client for a paralegal's time for a task that an attorney in the office has already billed the client at the attorney's rate.

5.31. Padding time sheets is fraudulent.

5.32.
(a) task padding: inflating a client's bill by charging for tasks that were not performed
(b) time padding: inflating a client's bill by charging for time that was not spent

5.33. Block billing is grouping multiple tasks under a single time-charge rather than describing each task separately and assigning the actual time associated with each task. The timekeeper enters the total time spent working on a case without itemizing the time spent on specific tasks for the case.

5.34. billable hours quota: a minimum number of hours expected from a timekeeper on client matters that can be charged (billed) to clients per week, month, year, or other time period.

5.35. The two holdings of Brown v. Hammond:
(a) An at-will employee with no oversight responsibility at the firm over billing cannot recover for wrongful discharge when she is terminated because she informed authorities and clients of her employer's illegal billing practices.
(b) An at-will employee can recover for wrongful discharge when she is terminated because she refused to violate the law herself by participating in illegal billing practices.

5.36. A client security fund is a fund (often run by a bar association or foundation) used to compensate victims of attorney misconduct.

5.37. Examples of wrongdoing by a paralegal that could lead to court action against the paralegal: false notarization of a signature; illegal use of insider information.

5.38. A clause in a document in which you say you witnessed someone do something to or in the document is an attestation clause.
5.39. Insider trading is improperly using material, nonpublic information to trade in the shares of a company.

5.40. (a) malicious prosecution: a tort with the following elements: (a) to initiate or procure the initiation of civil or criminal legal proceedings; (b) without probable cause; (c) with malice or an improper purpose; (d) the proceedings terminate in favor of the person against whom the proceedings were brought.

(b) abuse of process: a tort consisting of (a) the use of a civil or criminal process, (b) for a purpose for which the process is not designed, (c) resulting in actual damage.

(c) spoliation: intentionally destroying, altering, or concealing evidence.

5.41. When we say our legal system is an adversarial system, we mean that our method of resolving a legal dispute is to have parties (alone or through their advocates) argue their conflicting claims before a neutral decision maker.

5.42. Two tests to determine whether an attorney is asserting a frivolous position on behalf of a client: (a) Is there a good-faith argument that existing law supports the position or that the law should be changed to support it? (b) Is there a good-faith argument that existing should be changed to support the position?

5.43. Under Rule 11 of the Federal Rules of Civil Procedure, whenever an attorney in a federal case submits a motion or pleading to the court, he or she must certify that “it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation” and that “the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.” Violating Rule 11 can lead to a fine.

5.44. A fiduciary is one whose duty is to act in the interests of another with a high standard of care. Someone in whom another has a right to place great trust and to expect great loyalty.

5.45. Unethical commingling funds is mixing firm funds with client funds in the same account.

5.46. A client trust account is a bank account controlled by an attorney that contains client funds that may not be used for office operating expenses or for any personal purpose of the attorney.

5.47. retainer (1) An amount of money (or other property) paid by a client as a deposit or advance against future fees, costs, and expenses of providing services. (2) The act of hiring or engaging the services of someone, usually a professional. (The verb is retain.)
5.48.

(a) An attorney must disclose a material fact to a court or other tribunal when the attorney knows that silence about that fact would assist the client commit fraud or a crime such as perjury.

(b) An attorney must disclose a law to a tribunal that is against the position of the attorney’s own client when the attorney knows that the law has not been disclosed by opposing counsel.

5.49. A attorney must withdraw from a case when:

(a) the client fires the attorney

(b) representation would violate ethical rules

(c) representation would violate the law

(d) a physical or mental condition materially impairs the attorney’s ability to represent the client

5.50.

(a) a letter telling the client the attorney will no longer be representing the client: letter of disengagement (“kiss-off” letter)

(b) a letter explicitly telling a prospective client the attorney will not represent him/her: letter of nonengagement

5.51. An attorney can reveal confidential information when there is a reasonable belief that disclosure is necessary to prevent reasonably certain death or substantial bodily harm, or to prevent a client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests of another and in furtherance of which the client used or is using the attorney’s services. Also, when disclosure is required in litigation between attorney and client, e.g., over payment of a fee.

5.52. False. It applies to virtually all information pertaining to the client, not just to secrets or damaging information.

5.53. The attorney-client privilege is an evidentiary rule on when an attorney (and the attorney’s employees) can refuse to disclose information about a client.

5.54. The attorney-client privilege protects from disclosure those communications whose purpose is to facilitate the provision of legal services for the client by an attorney.
5.55. **Ethical duty of confidentiality**: Protects all information (not just client communications) from any source if the information pertains to a client case and was obtained by a law office while representing the client. **Attorney-client privilege**: Protects all communications made in confidence between an attorney and client if the purpose of the communication was to obtain legal services from the attorney. Everything protected by the attorney-client privilege is also protected by the ethical duty of confidentiality. The reverse, however, is not always true. All information protected by the ethical duty of confidentiality is not also protected by the attorney-client privilege. The former is broader than the latter.

5.56. **something is discoverable** if an opposing party in litigation can ask about it or otherwise gain access to it through pretrial discovery devices such as depositions and interrogatories.

5.57. The work-product rule says that the notes, working papers, memoranda, or similar documents and tangible things prepared in anticipation of litigation by or for an attorney are not discoverable by the opponent absent a showing of substantial need.

5.58. You might carelessly cause the **waiver** of a client’s attorney-client privilege if you carelessly or inadvertently allow someone to overhear your conversation about the client.

5.59. Metadata is data about data. Data about a computer document that is hidden within the document itself, e.g., earlier versions of the document. When you send someone a document the metadata could contain confidential information that should not be disclosed.

5.60. A **redacted** document is one that has been edited or prepared for publication or release by deleting, altering, or blocking out text that you do not want disclosed.

5.61. A **conflict of interest** is divided loyalty that actually or potentially harms someone who is owed undivided loyalty.

5.62. To enter a business transaction with a client ethically:

(a) The terms must be fair and reasonable to the client, and are disclosed to the client in understandable written language.

(b) The client must have a reasonable opportunity to consult with an uninvolved attorney.

(c) The client must consent in writing.

5.63. It can be ethical for an attorney to lend his or her client **litigation** expenses.
5.64. True. The danger is that the attorney might prepare the document in his or her own best interest rather that in the best interest of the client.

5.65.

(a) bias: prejudice for or against something or someone; an inclination or tendency to think or to act in a certain way; a danger of prejudgment

(b) disinterested: not working for one side or the other in a controversy; not deriving benefit if one side of a dispute wins or loses; objective

5.66. A paralegal's personal feelings about a case could create a conflict of interest when those personal feelings prevent the paralegal from giving 100 percent of his or her energies and skills to the client's objective in that case.

5.67. If there are adverse interests between two parties, it is usually a conflict of interest for an attorney to represent both.

5.68. It is unethical for an attorney in a current case to oppose a person who was once a client of the attorney in an earlier case when the current case is the same as the earlier one or when the two cases are substantially related, and when the former client and the present client have materially adverse interests in the same case.

5.69. If one attorney in a law firm is tainted or contaminated because he or she has a conflict of interest, there can be an imputed (vicarious) disqualification of the entire firm because of the tainted or contaminated attorney.

5.70. The purpose of a Chinese Wall is to try to prevent the imputed (or vicarious) disqualification of a law firm because of a contaminated or tainted employee who switched jobs. This employee brought a conflict of interest to the firm.

5.71. Screening techniques:

(a) The tainted employee signs a statement promising not to discuss what he or she knows about the case with anyone in the office.

(b) Those working on the case promise not to discuss it with or in the presence of the tainted employee.

(c) The tainted employee works in a physically segregated area.

(d) The files are locked from the tainted employee.

(e) The files are labeled “access restricted.”

(f) The tainted employee has no financial gain from the case.

etc.
5.72. When a Chinese Wall is built around a tainted employee, the latter is called a **quarantined** employee.

5.73. When a law office is considering a lateral hire, it should do a **conflicts check** on him or her to avoid imputed disqualification.

5.74. A paralegal can cause the imputed disqualification of a law firm by having a conflict of interest with a current client due to prior paid or volunteer work against that client at another law office.

5.75. Freelance paralegals are more likely to cause the imputed disqualification of a law firm than other paralegals because a freelance paralegal works for different attorneys who are not aware of the cases the paralegal has worked on for other attorneys. It is possible that the freelance paralegal worked for and against a client on the same or related cases for different attorneys.

5.76. A confidential list of every client and matter you worked on in any law office from the beginning of your legal career to the present time that can be used to help determine whether any of your future work might create a conflict of interest is called a **career client list**.

5.77. Under the anticontact rule, an advocate should not contact an opposing party without permission of the latter's attorney; if the party is unrepresented, the advocate must not convey the impression that the advocate is disinterested.

5.78. True and false. In-person solicitation is unethical if the attorney has no prior family or business relationship with the prospective client and the attorney is trying to make money. Truthful solicitation by mail, however, can be proper.

5.79. A runner is someone who solicits business, especially accident cases for attorneys.

5.80. Advertising can be ethical if:

(a) The ad is truthful.

(b) The ad is not misleading.

(c) The ad includes the name and office address of an attorney or law firm responsible for the ad.
5.81. The danger of attorney Web sites is that the information on the site may be considered the unethical practice of law and giving of legal advice.

5.82. One attorney must report another when the attorney has knowledge that the other attorney has violated ethical rules that are serious enough to cast doubt on the attorney’s trustworthiness or fitness to practice law.

5.83. True in those states that make it unethical for attorneys to engage in the appearance of impropriety.

5.84. Under EC 3-6:
(a) The attorney must maintain a direct relationship with the client.
(b) The attorney must supervise the delegated work.
(c) The attorney must have complete professional responsibility for the work product.

5.85. Under Opinion 316, nonattorneys cannot:
(a) counsel clients about law matters
(b) engage directly in the practice of law
(c) appear in court or formal proceedings as part of the judicial process

5.86. Under Rule 5.3 the three categories of attorneys are:
(a) a partner or attorney with management authority comparable to a partner
(b) a supervisory attorney
(c) any other attorney in the firm

5.87. A attorney who supervises a paralegal must make reasonable efforts to ensure that the paralegal’s conduct is compatible with the professional obligations of an attorney.

5.88. The word “associate” commonly refers to an attorney; the public might be misled into thinking a paralegal associate (or associate paralegal) is an attorney.
5.89. The danger of allowing a suspended or disbarred attorney to be a paralegal is that he or she will go beyond paralegal duties.

5.90. The clearest way for a paralegal to communicate his or her nonattorney status is to tell everyone, “I am not an attorney.”

5.91. Paralegal business cards cannot be used to solicit business for an attorney.

5.92. Dangers when nonattorneys sign letters on attorney stationery:
(a) The title of the nonattorney will not clearly indicate that he or she is not an attorney.
(b) The letter will give legal advice.

5.93. The practice of law is using legal skills to assist a specific person in resolving his or her specific legal problem.

5.94. Paralegals can give legal advice (a) if they are telling a client precisely what an attorney has told them to tell the client, with no elaboration and (b) the advice pertains to areas of the law where nonattorneys are authorized to represent clients (e.g., Social Security), which would include giving legal advice.

5.95. True and false. Paralegals can draft legal documents under attorney supervision, can in some states assist attorneys at closings, but can never conduct depositions.

5.96. The opposite of “shoulder” supervision is absentee supervision.

5.97. An attorney’s ethical duty of supervision may be most difficult to fulfill with respect to freelance or independent paralegals because they may not work in the same office as the attorneys for whom they work. The different attorneys that hire the paralegal may not know, for example, that a conflict of interest has been created by the paralegal’s work for other attorneys.
Answers to Review Questions on Chapter 6

Introduction to the Legal System

(The Review Questions for Chapter 6 are within this study guide.)

6.1. (a) federal, (b) state, (c) local

6.2. federalism

6.3.
(a) legislative: makes the laws
(b) executive: carries out the laws
(c) judicial: interprets the laws by resolving disputes under them

6.4. Public policy consists of principles inherent in customs and societal values that are embodied in a law.

6.5.
(a) Primary authority is any law that a court could rely on in reaching its decision.
(b) Secondary authority is any nonlaw that a court could rely on in reaching its decision.

6.6. False. Opinion and case are often used interchangeably.

6.7.
(a) The legislature writes the statute.
(b) initiative and referendum process

6.8.
(a) A constitution is the fundamental law that creates the branches of government, allocates power among them, and defines some basic rights of individuals.
(b) An administrative regulation is law written by an administrative agency designed to carry out the statutes and executive orders that govern an agency.
6.9. An **administrative decision** is an administrative agency's resolution of a controversy (following a hearing) involving the application of the regulations, statutes, or executive orders that govern the agency.

6.10. False. A **treaty** is an international agreement between two or more countries. A legal **treatise** is a book on a legal subject written by a private citizen or by a public official acting in a private capacity.

6.11. A city council will pass laws called **ordinances**.

6.12. Opinions of the attorney general contain **legal advice** given to government officials.

6.13. Another name for administrative regulation is **administrative rule**.

6.14. The document that contains a statute is an **act**.

6.15. An executive order is issued by the **chief executive**.

6.16. The purpose of checks and balances is to prevent one branch of government from becoming too powerful.

6.17. The power of judicial **review** allows the courts to determine whether the legislature has passed a statute that violates the constitution.

6.18.

(a) all case law

(b) the legal system of England and America

(c) all case law and statutory law in England and in the Colonies before the American Revolution

(d) judge-made law in the absence of controlling statutory law or other higher law

6.19. A statute that has changed the common law is a statute in derogation of the common law.

6.20. Our judicial system is **adversarial** in the sense that we try to seek justice and truth by having the opponents in a legal dispute present their conflicting positions before a neutral judge.
6.21.
(a) A constitutional court is a court created within the constitution. (At the federal level, they are called Article III courts because they are created within Article III of the U.S. Constitution.)
(b) A legislative court is a court created by the legislature. (At the federal level, they are called Article I courts because Article I of the U.S. Constitution gives Congress the authority to create special courts.)

6.22. Stare decisis: Courts should decide similar cases in the same way unless there is good reason for the court to do otherwise. A reluctance to reject precedent—a prior opinion covering a similar issue.

6.23. Jurisdiction:
(a) the power of a court to decide a matter in dispute
(b) the geographic area over which a particular court system or other government unit has authority
(c) the scope of power or authority that a person or entity can exercise

6.24. Adjudicate means to hear and resolve a legal matter judicially. To judge. The noun is adjudication; the adjective is adjudicative. See also quasi-adjudication.

6.25. The jurisdiction a court need to resolve a legal dispute over a thing or res located within the territory over which the court has authority is called in rem jurisdiction.

(a) limited jurisdiction: The court can hear only certain kinds of cases.
(b) general jurisdiction: The court can hear any kind of civil or criminal case, with certain exceptions.
(c) exclusive jurisdiction: Only that court can hear the case.
(d) concurrent jurisdiction: More than one court can hear a particular kind of case.
(e) original jurisdiction: The court can be the first to hear a case before it is reviewed by another court.
(f) appellate jurisdiction: The court can review and correct the decisions of a lower tribunal.

6.27.
(a) A state question is an issue or question that arises from or that is based on the state constitution, state statutes, state administrative regulations, state common law, or other state law.
(b) A federal question is an issue or question that arises from or that is based on the federal constitution, federal statutes, federal administrative regulations, or other federal law.
6.28.
(a) Supreme Court: Supreme Judicial Court, Supreme Court of Appeals, Court of Appeals
(b) Superior Court: Circuit Court, District Court, Court of Common Pleas, Supreme Court (in New York only)
(c) Probate Court: Surrogate Court

6.29. Below the trial courts of general jurisdiction there are inferior courts in many states.

6.30. Appellate attorneys submit appellate briefs to the appeals court stating their arguments on why the court should affirm (approve), reverse, or otherwise modify what a lower court has done.

6.31. An appellate panel is a group of judges, usually three, who decide a case on a court with a larger number of judges.

6.32. When a case is heard en banc, all of the appellate judges on the court (not just an appellate panel) decide a case.

6.33. If there is more than one court of appeals, the first level is sometimes called the intermediate appellate court.

6.34. The basic federal trial court is the U.S. District Court.

6.35. The main intermediate appellate court in the federal system is the U.S. Court of Appeals.

6.36. The federal court of final appeals is the U.S. Supreme Court.

6.37. An administrative agency is a governmental body, other than a court or legislature, that carries out (i.e., administers or executes) the statutes of the legislature, the executive orders of the chief executive, and its own regulations.

6.38. The three main kinds of administrative agencies:
(a) executive department agency
(b) independent regulatory agency
(c) quasi-independent regulatory agency
6.39. A government corporation is a government-owned entity that is a mixture of a business corporation and a government agency created to serve a predominantly business function in the public interest.

6.40. Agencies with rule-making functions act like the legislature. The rules and regulations written by the agencies are referred to as quasi-legislation.

6.41. The phrase quasi-adjudication means the process by which agencies act like courts in resolving disputes.

6.42. Names of persons who preside over administrative hearings:
   (a) hearing examiner
   (b) trial examiner
   (c) administrative law judge (ALJ)

6.43. Exhausting administrative remedies means to go through all the dispute-solving avenues that are available in an administrative agency before asking a court to review what the agency did.

6.44. The APA (Administrative Procedure Act) is a statute that governs procedures before federal administrative agencies. Many states have their own APA for procedures before state administrative agencies.

6.45.
   (a) bicameral: consisting of one house or chamber in the legislature
   (b) unicameral: consisting of two houses or chambers in the legislature

6.46.
   (a) initiative: the electorate's power to propose and directly enact a statute or change in the constitution or to force the legislature to vote on the proposal
   (b) referendum: the electorate's power to give final approval to an existing provision of the constitution or statute of the legislature

6.47. The six main stages of enacting legislation:
   (a) proposal
   (b) initial committee consideration
(c) floor debate
(d) conference committee consideration
(e) floor debate
(f) response of the chief executive

6.48. The legislative history of a statute is everything that occurred from the time the statute was proposed to the
time it was acted upon by the chief executive.

6.49. The function of the National Conference of Commissioners on Uniform State Laws is to propose the
adoption of statutes by the state legislatures where it deems uniformity to be desirable.

6.50. A bill the president has vetoed can still become law if both houses of the legislature vote to override the
veto by a two-thirds vote.

6.51. A pocket veto is the chief executive’s “silent” rejection of a bill by not acting on it within ten weekdays of
receiving it if the legislature adjourns during this period.

6.52. 
(a) engrossed bill: the version of a bill passed by one of the chambers of the legislature after incorporating
amendments or other changes
(b) enrolled bill: a bill that is ready to be sent to the chief executive after both chambers of the legislature have
passed it
Answers to Review Questions on Chapter 7

Introduction to Legal Analysis

(The Review Questions for Chapter 7 are within this study guide.)

7.1. Legal analysis is the application of one or more rules to the facts of a client’s case in order to answer a legal question that will help (1) keep a legal dispute from arising, (2) resolve a legal dispute that has arisen, or (3) prevent a legal dispute from becoming worse.

7.2. The basic structure of legal analysis is as follows:

Rule + Facts + Issue + Connection (application of rule to the facts) = Conclusion.

7.3. IRAC: I: Issue; R: Rule; A: Application of Rule to the Facts; C: Conclusion. IRAC is an acronym that describes the legal analysis process. IRAC provides a structure for legal analysis.

7.4. A memorandum of law is a written explanation of how the law might apply to the fact situation of a client.

7.5. An element is a component or portion of a rule that is a precondition of the applicability of the entire rule.

7.6. Rules are sometimes difficult to break into elements because the rule:
(a) contains lists
(b) contains alternatives
(c) contains exceptions or provisos

7.7. A cause of action is a legally acceptable reason for suing. Facts that give a party the right to judicial relief.

7.8. Element identification helps:
(a) identify issues
(b) draft a complaint
(c) draft an answer
(d) organize a client interview
(e) organize an investigation

(f) conduct a deposition

(g) organize a memorandum of law

(h) organize an examination answer

(i) charge a jury

7.9. Once you have identified the element in contention, you have the basis of a legal issue.

7.10. An element is in contention when you can predict that the other side in the controversy will probably not agree on the definition of the element, on whether the facts fit within the element (i.e., within the definition), or both.

7.11. The two components of a comprehensive statement of a legal issue are:

(a) a brief quote from the element in contention

(b) several of the important facts relevant to that contention

7.12. When a dispute is over the truth or falsity of an alleged fact it is called a question of fact or a factual issue.

7.13. Ambiguous language within an element in contention can often be defined broadly or narrowly.

7.14. An element is a precondition of the applicability of a rule. The rule cannot apply unless each element of that rule applies. Sometimes, however, there is no traditional definition of an element. Instead, the rule will list factors that are to be considered in determining the applicability of the element. A factor is simply one of the circumstances or considerations that will be weighed in making a decision, no one of which is conclusive.

7.15.

(a) brief of a court opinion: a summary of the main or essential parts of a court opinion.

(b) trial brief: (1) an attorney's personal notes on how to conduct a trial; also called trial manual and trial book. (2) an attorney's presentation to a trial court of the legal issues and positions of his or her client; also called trial memorandum.

(c) appellate brief: a document submitted (filed) by a party to an appellate court (and served on an opposing party) in which arguments are presented on why the appellate court should affirm (approve), reverse, or otherwise modify what a lower court has done.
7.16.

(a) The appellant is the party bringing the appeal because of dissatisfaction with the ruling or decision of the lower court.

(b) The appellee is the party against whom the appeal is brought.

(c) Respondent is another name for appellee.

7.17. The calendar number of a case is its docket number.

7.18. When the equivalent of an appellate brief is filed in a trial court, it is often called memorandum of points and authorities.

7.19. Two major systems for checking the subsequent history of an opinion are Shepard's Citations and KeyCite.

7.20. A citator is a book, CD-ROM, or online service containing lists of citations that can (a) help you assess the current validity of an opinion, statute, or other item and (b) give you leads to additional relevant materials.

7.21. The one-paragraph summary of an opinion often placed at the beginning of the opinion is called the syllabus or case synopsis.

7.22. A headnote is a short-paragraph summary of a portion of a court opinion printed before the opinion begins.

7.23. Headnotes are printed:

(a) at the beginning of the opinion

(b) in the digests of West Group

7.24. A key number consists of a general topic (e.g., Searches and Seizures) and a number for one of its subtopics (e.g., 3.8(1)). Key numbers are used by West Group to organize millions of cases by topic in its digests.

7.25.

per curiam opinion (an opinion “by the court” as a whole): A court opinion, usually a short one, that does not name the judge who wrote it.

memorandum opinion (mem.): The decision of a court with few or no supporting reasons, often because it follows established principles. Also called memorandum decision.
7.26. A key fact is a critical fact; a fact that is essential or very important to the decision (holding) reached by the court.

7.27. When a court construes a statute, the court interprets it.

7.28. Stare decisis means that a court should be reluctant to reject precedent.

7.29. When an appellate court remands a case, it sends it back to a lower court with instructions on how to proceed.

7.30. Res judicata (“a thing adjudicated”) means that a final judgment on the merits will preclude the same parties from later relitigating the same claim and any other claim based on the same facts or transaction that could have been raised in the first suit but was not. Also called claim preclusion.

7.31. Dictum is: (1) A statement or observation made by a judge in an opinion that is not essential to resolve the issues before the court; comments that go beyond the facts before the court. Also called obiter dictum. (2) An authoritative, formal statement or announcement.

7.32.

(a) majority opinion: the opinion whose result and reasoning are supported by at least half plus one of the judges on the court

(b) concurring opinion: an opinion written by less than a majority of the judges on the court that agrees with the result reached by the majority but not with all of its reasoning

(c) dissenting opinion: an opinion that disagrees with the result and the reasoning used by the majority or plurality opinion

7.33.

(a) The citation tells you where the opinion can be found.

(b) The parties are the lead parties in the litigation, their relationship to each other, their litigation status when the case began, and their litigation status here in the case you are now reading and briefing.

(c) The objectives of the parties are the ultimate objectives they were seeking when the litigation began.

(d) The theories of the litigation are the legal theories of both parties, usually the cause(s) of action and defense(s).

(e) The history of the litigation is a brief summary of each prior proceeding in the litigation.
(f) The facts are those essential or very important facts that were key to the court’s holding—the key facts.

(g) The issue is the question of law—containing a brief quote from the rule in controversy and the important facts that raise this controversy.

(h) The holding is the court’s answer to the issue.

(i) The reasoning consists of the reasons why the court reached its holding.

(j) The disposition is the consequence of the court’s resolution of the issue. What the court ordered.

7.34. A thumbnail brief is a brief of a brief.

7.35. An opinion is analogous if it is sufficiently similar to justify a similar outcome or result in another case. [Additional definitions of analogous: (a) sufficiently similar to lend support; (b) on point; germane; Involving the same or similar issues; involving facts and rules that are similar to those now under consideration]

7.36.

(a) Common law is judge-made law created within litigation; enacted law is any law not created within litigation.

(b) Common law applies mainly to past facts’ enacted law is mainly prospective, applicable to future facts.

7.37. Four examples of enacted law:

(a) constitutions

(b) statutes

(c) administrative regulations

(d) ordinances

7.38. Judge-made law in the absence of controlling statutory law or other higher law is called common law.

7.39.

(a) Rule comparison. First you compare the rule (enacted law, common law, or both) that was interpreted and applied in the opinion with the rule that you have uncovered elsewhere in your research (or the rule that you have been given) as potentially applicable to your problem facts.

(b) Fact comparison. Second, you compare the key facts of the opinion (i.e., those that were essential or very important to its holding) with your problem facts.
7.40. An opinion is on all fours when its facts are exactly the same or almost exactly the same as the facts of your case.

7.41. For the holding in an opinion to apply, the key facts in the opinion must be substantially the same as the facts of your case.

7.42. When comparing the facts of the opinion with the facts of your case, you compare:
   (a) factual similarities
   (b) factual differences
   (c) factual gaps

7.43. In the “A” (application) of IRAC, you discuss the potential applicability of court opinions.

7.44. If you want a holding to apply to the problem facts, you try to show that there is a substantial similarity between all the key facts in the opinion for that holding and the problem facts.

7.45. If you do not want a holding to apply to the problem facts, you try to show that there is a substantial difference between at least one of the key facts for that holding and the problem facts.

7.46. A roadmap paragraph is overview or thesis paragraph at the beginning of a memorandum of law that tells the reader what issues will be covered and briefly states the conclusions that will be reached.
Answers to Review Questions on Chapter 8

Legal Interviewing

(The Review Questions for Chapter 8 are within this study guide.)

8.1. Attorneys are sometimes portrayed negatively in the media because:

(a) They take unpopular cases.

(b) They are often in the middle of bitter disputes where they become lightning rods for hostility.

(c) They may try to portray their accused clients as victims.

8.2. A retainer is: (1) An amount of money (or other property) paid by a client as a deposit or advance against future fees, costs, and expenses of providing services. (2) The act of hiring or engaging the services of someone, usually a professional. (The verb is retain.)

8.3. A person with a deep pocket is someone who has resources from which a judgment can be paid if awarded against him or her.

8.4. If an attorney decides not to represent someone, he or she should send that person a letter of nonengagement that explicitly says this.

8.5. Three main kinds of legal interviews:

(a) initial client interview

(b) follow-up client interview

(c) field interview of someone other than the client

8.6. A competent initial client interview sets the foundation for the following six events in the context of litigation:

(a) field investigation, (b) follow-up interviews, (c) legal research, (d) negotiations for settlement, (e) trial, (f) appeal

8.7. The five components of the structure of an intake memo are:

(a) heading, (b) personal data, (c) statement of the assignment, (d) body of the memo, (e) conclusion

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8.8. Cautions are needed when using a checklist:

(a) Know why every question is in the checklist.

(b) Be flexible enough to ask relevant questions not on the checklist when needed.

8.9. Legal analysis helps identify questions that should be asked in the interview (particularly with respect to what is legally relevant), and raises doubts about the meaning of the law. These doubts should prompt further questions during the interview.

8.10. When you particularize a fact, you ask an extensive series of questions (who, what, where, how, when, and why) about a fact in order to explore or bring out its uniqueness.

8.11. The eight categories of questions that you can ask about a fact in order to particularize that fact are:

(a) time details

(b) place and environment details

(c) details on other participants

(d) extent of certainty

(e) extent of uncertainty

(f) verification details

(g) analogies

(h) miscellaneous details

8.12. One of the main reasons clients sometimes have difficulty telling an interviewer what the client wants is the fact that people are confused about the law and make requests based on misinformation about what courses of action are available to solve legal problems.

8.13. Bias is prejudice for or against something or someone. An inclination or tendency to think or to act in a certain way. A danger of prejudgment. The opposite of bias is objectivity.

8.14. It is appropriate for an interviewer to express his or her feelings about the case to a client when it would be natural to express those feelings or when it would be awkward or unnatural not to express them. The danger of not expressing them is appearing uncaring. The danger of expressing these feelings is losing objectivity.
8.15. The “stomach test” is as follows: if your gut tells you that your personal feelings about the case are so intense that you may not be able to do a quality job for the client, you need to talk with your supervisor or take some other action to prevent this interference with the client’s right to 100 percent of your energy and skill.

8.16. Steps to take to prepare for an interview:
(a) Schedule the interview to avoid interruptions.
(b) Find a place that is private and convenient for the client.
(c) Find out if the client has any special needs such as for wheelchair access.
(d) Contact the client to confirm the time and place of the interview.
(e) Anticipate and prepare for the client’s comfort.
(f) Read everything in the file to date.
(g) Have a final brief meeting with your supervisor to go over your instructions.
(h) Find available checklists in the office.
(i) Do some overview research in the law library.
(j) Prepare any needed forms.
(k) Get supplies for note taking.
(l) Develop an attitude of freshness about the interview.

8.17. A law firm can be sued for breach of contract if it promises or guarantees a result to the client that does not occur.

8.18. Technical language that does not have an everyday meaning is called jargon.

8.19. When beginning an interview:
(a) Introduce yourself by name and title.
(b) Don’t call the client by his/her first name unless invited to do so.
(c) Express appreciation to the client.
(d) Make clear you are not an attorney.
(e) Start at a personal level.
(f) Review the goals of the interview with the client.
(g) Make the client feel his or her case is special to you.
(h) Don’t tell the client how busy you are.
(i) Express understanding and empathy.
(j) Don’t be judgmental.
(k) Make sure the client understands that what he or she tells you is confidential.
(l) Find out if the client has immediate concerns.
(m) Avoid unnecessary legal jargon; explain necessary jargon.
(n) Explain why you are taking notes.
(o) Listen for clues to other legal problems and relevant nonlegal problems.
(p) Begin with open-ended questions.
(q) Get an overview/outline of the entire event or transaction.
(r) Encourage the client to give you the facts chronologically.
(s) Provide reassurance without promising results.

8.20. “What’s the problem?” is an example of a question that is open-ended.

8.21. “What’s your maiden name?” is an example of a question that is closed-ended. (Caution: it may also be an example of an illegal question.)

8.22. “Why were you in Detroit?” is an example of a leading question.

8.23. “Who saw you take it?” is an example of a question that is leading and corroborative.

8.24. “Did you return the file to the owner or give it to the police?” is an example of a combination (multiple-choice) question.

8.25. “Why did you return to the house and what did you find there?” is an example of a combination (add-on) question.

8.26. Techniques for practicing attentive listening:

(a) Make it obvious the client has your full attention.
(b) Occasionally lean forward as the client speaks.
(c) Avoid being fidgety or appearing nervous.
(d) Take notes on what the client says.
(e) Maintain eye contact as often as possible.
(f) Occasionally nod yes or say “ah hum” or “I see” in response to what the client is saying.
(g) Let the client know he or she is providing useful information.
(h) Be aware of the client’s body language.
(i) At appropriate times, restate a feeling the client is expressing.
(j) Occasionally read back from your notes.
(k) Ask spontaneous questions that occur to you.
(l) Refer back to what the client said earlier in the interview.
(m) Never express impatience.
(n) Avoid interrupting the client.
(o) Don’t finish the client’s sentences.

8.27. To achieve factual comprehensiveness:

(a) Pursue fact particularization.
(b) Ask corroborative questions.
(c) Encourage the client to tell you negative facts.
(d) Probe for underlying facts.
(e) Use available checklists, but go beyond them.
(f) Determine the extent of certainty/uncertainty the client has about facts he or she is telling you.

8.28. To avoid ethical problems during the interview:

(a) Don’t discuss the facts of other cases in front of the client.
(b) Don’t have open files of other cases while the client is in the room.
(c) Don’t let the client wander in the law firm corridors where he or she might hear other staff talk about other cases.
(d) Make sure the client understands you are not an attorney.
(e) Avoid giving legal advice.

(f) Be alert to conflicts of interest.

(g) Don’t discuss fees with the client.

8.29. What to do when ending the interview:

(a) Ask the client to sign needed forms.

(b) Ask the client if anything remains on the client’s mind that he or she wants to discuss.

(c) Let the client know what the next step is.

(d) Remind the client how to reach you.

(e) Thank the client for the interview.

(f) Start preparing a draft of your intake memo.

(g) Make a note in the file that you conducted the interview, including the date and time.

8.30. Ways to improve your interviewing skills:

(a) Read literature on interviewing.

(b) Attend seminars that cover legal interviewing.

(c) Ask someone in the office observe you interview and to critique you.

(d) Ask someone in the office to read and critique your intake memo

(e) Watch others interview.

(f) Ask attorneys and paralegals about their interviewing experiences.

8.31. “Difficult” clients can include:

(a) the client who thinks he or she knows all the law

(b) the angry client

(c) the demanding/suspicious client

(d) the client who lies
Answers to Review Questions on Chapter 9

Investigation in a Law Office

(The Review Questions for Chapter 9 are within this study guide.)

9.1. Legal investigation is the process of gathering additional facts and verifying presently known facts in order to advise a client on how to solve or avoid a legal problem.

9.2. A forensic accountant might examine corporate records for evidence of fraud or embezzlement.

9.3. Due diligence consists of reasonable efforts to find and verify factual information needed to carry out an obligation, to avoid harming someone, or to make an important decision, e.g., to determine the true market value of a potential investment.

9.4. All important facts taken during the intake interview should be treated as facts that need to be verified through investigation.

9.5. Fact: (1) An actual event; a real occurrence. Anything that is alleged to exist or that can be shown to exist, e.g., an incident, a relationship, an intention, an opinion, an emotion. (2) An event or state of mind that can lead to (but that is separate from) its legal consequences.

9.6. Two questions that should guide the investigator's inquiry into every fact:

(a) How will the fact assist or hurt the office in trying to settle or negotiate the case without a trial?
(b) How will the fact assist or hurt the office in presenting the client's case at trial?

9.7. You impeach a witness when you attack his or her credibility.

9.8.

(a) deposition
(b) interrogatories
(c) request for admissions
(d) request for medical examination
9.9. False. Deposition questions are usually answered in person while interrogatory questions are usually answered through the mail.

9.10. Substantive law consists of nonprocedural laws that define or govern rights and duties.

9.11. An investigator should study available discovery documents;
(a) to cross-check or verify the facts found in the discovery documents
(b) to look for leads for further investigation

9.12. False. The goal of the investigator is to come up with reasonable leads. The test is not absolute or clear proof. The test is whether the fact might be accepted by the court.

9.13. Evidence is anything that could be offered to prove or disprove an alleged fact. Proof is enough evidence to establish the truth or falsity of a fact.

9.14. There can be more than one version of the facts because events mean different things to different people. One person may incorrectly think his or her version is the complete picture.

9.15. A leading question is one that suggests the answer in the question.

9.16.
(a) Parol evidence is evidence of an oral statement.
(b) Tangible evidence is evidence that can be seen or touched; evidence that has a physical form.

9.17. Evidence without physical form is intangible evidence.

9.18. The Freedom of Information Act (FOIA) should be used when you are having difficulty gaining access to government records.
9.19. Factors that will help you assess the value of testimony of a witness claiming to have seen an event you are investigating:

(a) length of time since event
(b) the quality of the memory of the witness
(c) distance from event
(d) quality of vision
(e) time of day as affects vision
(f) weather as affects vision
etc.

9.20. Five kinds of witnesses an investigator might encounter:

(a) hostile, (b) skeptical, (c) friendly, (d) disinterested or neutral, (e) combination of the above.

9.21. A disinterested witness is not working for one side or the other in a controversy; he or she does not derive benefit if one side of a dispute wins or loses; he or she is objective.

9.22. False. By definition, if a witness is disinterested, he or she does not have a bias.

9.23. A witness who is subpoenaed is compelled to appear.


9.25. Records to check to determine whether a judgment debtor has assets from which a judgment can be satisfied:

(a) real property records (grantee/grantor indexes)
(b) real and personal property tax assessments
(c) UCC filings
(d) federal tax liens
(d) court dockets
(e) inheritance records

(a) Westlaw: Asset Locator, Executive Affiliation Records, Combined Uniform Commercial Code, Liens/Civil Judgment Filings, Dunn & Bradstreet Business Records Plus, etc.

(b) LexisNexis: ASSETS, Bankruptcy, Business Filings, Business Reports, etc.

9.27. Due diligence consists of reasonable efforts to find and verify factual information needed to carry out an obligation, to avoid harming someone, or to make an important decision, e.g., to determine the true market value of a potential investment.

9.28. A cross-reference (reverse or criss-cross) directory may give you the names of people who live at a particular address in addition to the names of surrounding neighbors.

9.29. At the post office, send a registered letter to the person's last known address with a "return receipt requested."

9.30. Efforts to locate persons (e.g., debtors) or assets.

9.31.

(a) 100: New York

(b) 025: Massachusetts

(c) 450: Texas

9.32.

(a) obtain the police report

(b) take witness statements

(c) photograph the accident scene

(d) take appropriate measurements

9.33. Evidence is what tends to prove or disprove a fact. If the evidence is admissible, the jury will be allowed to consider it.
9.34. Four ways that a version of a fact can be established:

(a) admission
(b) judicial notice
(c) presumption
(d) evidence without the aid of the above three

9.35. False. If the fact was established by an irrebuttable presumption, the jury must accept that fact as true.

9.36.

(a) Direct evidence is evidence (based on personal knowledge or observation) that tends to establish a fact (or to disprove a fact) without the need for an inference.

(b) Circumstantial evidence is evidence of one fact (not based on personal knowledge or observation) from which another fact can be inferred.

9.37.

(a) direct evidence:
• that Bob blushed;
• that Bob blushed when he was asked if he knew that Bill's money was stolen

(b) circumstantial evidence:
• Bob stole the money (it was the blush of a guilty man).

9.38. False and true. All relevant evidence is not conclusive. The jury might decide to disbelieve relevant evidence. When evidence is relevant, it simply means that it logically tends to establish or disprove something, but not necessarily conclusively. All conclusive evidence, however, would have to be relevant. Evidence that conclusively establishes a fact is obviously reasonably related to that fact.

9.39. False and true. Some relevant evidence may be ruled inadmissible, e.g., evidence that is prejudicial or unnecessarily duplicative. It is true, however, that all admissible evidence is relevant; otherwise it could not have been ruled admissible.

9.40. False. Relevant, admissible evidence can always be disbelieved and rejected by the jury in favor of other (more believable) relevant, admissible evidence.
9.41.
(a) A competent witness is one who is allowed to testify.
(b) A credible witness is one the jury finds believable.

9.42. The witness is competent to testify if he or she:
(a) understands the obligation to tell the truth
(b) has the ability to communicate
(c) has knowledge of the topic of his or her testimony

9.43. False. An atheist can understand the obligation to tell the truth, have the ability to communicate, and have knowledge about the topic of his or her testimony. Competency does not require a belief in God.

9.44. False. Expert witnesses can state opinions. Lay witnesses are sometimes allowed to do so if they are talking from their own observations and it would be awkward for them not to express an opinion.

9.45.
(a) testimony given in court
(b) about a statement made out of court (by an out-of-court declarant)
(c) the testimony is offered to assert the truth of the matter in the statement
(d) the value of the statement depends on the credibility of the out-of-court declarant

9.46.
(a) (iii)
(b) (ii)
(c) (iv)
(d) (i)

9.47. False. If any of the exceptions to the hearsay apply, the statement would simply be admissible hearsay.
9.48.

(a) Client’s spouse: marital communications privilege
(b) Mary Smith, Esq.: attorney-client privilege
(c) Rabbi Jones: clergy-penitent privilege
(d) James Phillips, MD: doctor-patient privilege

9.49. If Helen is charged with burglary and the police ask her if she did it, she can refuse to answer on the basis of the privilege against self-incrimination.

9.50. To prove the contents of a private (nonofficial) writing, the original writing should be produced unless unavailable.

9.51. Authentication is evidence that a writing (or other physical item) is genuine and that it is what it purports to be.

9.52. A testator is one who has died leaving a valid will.

9.53. Under the parol evidence rule, prior or contemporaneous oral statements cannot be introduced to alter or contradict the terms of a written document if the parties intended the written document to be a complete statement of the agreement.

9.54. An evidence log is an ongoing record that provides identification and other data about documents and other tangible objects that might eventually be introduced into evidence.

9.55. Witnesses from whom you should take a witness statement:

(a) pre-occurrence witness
(b) occurrence witness
(c) post-occurrence witness

9.56. A “witness” statement should be taken from someone who says he or she does not know anything to rebut an allegation by this person later that he or she does know something.
9.57. Items that should go at the beginning of a witness statement:

(a) identifying information about the witness

(b) date and place of the taking of the statement

(c) name of the person to whom the statement is being made

9.58. A witness should sign or initial a witness statement on the last page; he or she should also sign or initial all of the other pages.

9.59. Others who have watched the witness sign the statement should sign an attestation clause stating that they have done so.

9.60. If there are seven pages to a witness statement, they should be numbered:

1 of 7
2 of 7
3 of 7
4 of 7
5 of 7
6 of 7
7 of 7 (the last page of the statement)

9.61. Never. Let the witness make the corrections in the handwriting of the witness.

9.62. A settlement work-up is a summary of the major facts in the case presented in a manner designed to encourage the other side (or its insurance company) to settle the case.

9.63. Ethical investigators do not: improperly contact an opposing party who has attorney representation, lie about their identity, allow anyone to think they are attorneys, make false statements of fact, make promises in exchange for an agreement to bring or drop a lawsuit, encourage anyone to alter evidence or avoid process, secretly record an interview, or reveal personal information about others. They are also careful to avoid waiving the attorney-client privilege.
Answers to Review Questions on Chapter 10

Litigation Assistantship

(The Review Questions for Chapter 10 are within this study guide.)

10.1. Litigation is the formal process of resolving a legal dispute through the courts.

10.2. Someone is litigious if he or she is prone to engage in disputes and litigation.

10.3. Kinds of civil disputes:

(a) One private person or entity sues another private person or entity.

(b) A private person or entity sues the government.

(c) The government sues a private person or entity for a matter other than the commission of a crime.

10.4. A criminal dispute is a legal controversy in which the government alleges the commission of a crime.

10.5. Damages: An award of money paid by the wrongdoer to compensate the person who has been harmed.

10.6. The clause or statement in the complaint that asks for damages is the ad damnum clause.

10.7. Two persons found to be responsible for the entire harm suffered by the plaintiff are jointly and severally liable.

10.8. Retainer:

(a) An amount of money (or other property) paid by a client as a deposit or advance against future fees, costs, and expenses of providing services.

(b) The act of hiring or engaging the services of someone, usually a professional. (The verb is retain.)

10.9. An attorney tells a court that he or she represents a litigant by filing a notice of appearance with the court in order to become the attorney of record.
10.10. The court where the case is tried is called the forum; the selection of a particular court within a judicial system is called the choice of venue.

10.11. A federal court will have diversity of citizenship if:
(a) The parties to the litigation are citizens of different states.
(b) The amount in controversy exceeds $75,000.

10.12. A cause of action is a legally acceptable reason for suing. Facts that give a party the right to judicial relief.

10.13. If someone is not sure of an answer, he or she can say, “I don’t know,” or give a response upon information and belief.

10.14. Service of process is a formal notice to a defendant that a suit has been initiated to which he or she must respond.

10.15. An allegation is a claimed fact, a fact that a party will try to prove at trial.

10.16. The law that a civil or criminal action is barred if not brought within a specified period of time is the statute of limitations.

10.17. All of the assets and liabilities of a decedent after he or she dies is referred to as the estate.

10.18. Complaints and answers are examples of pleadings.

10.19. Another name for the failure to state a cause of action and a demurrer is the failure to state a claim upon which relief can be granted

10.20. Documents and the parties against whom they are usually directed or filed:
(a) cross-claim another defendant or another plaintiff in the same action
(b) complaint defendant
(c) answer plaintiff
(d) counterclaim………………plaintiff
(e) third-party complaint.......someone not now a party
(f) service of process..........defendant
(g) default judgment.........defendant

10.21. In jury trials:
(a) Juries decide questions of fact.
(b) Judges decide questions of law.

10.22. In nonjury trials, the role of the judge is to decide both the questions of law and the questions of fact.

10.23. A summons is a notice directing the defendant to appear in court and answer the plaintiff's complaint or face a default judgment.

10.24. The rules that govern the conduct of noncriminal trials in federal court are the Federal Rules of Civil Procedure.

10.25. 
(a) A default judgment is granted against a party for failure to file a required pleading or otherwise respond to an opponent's claim.
(b) A summary judgment is granted when there is no conflict on any of the material or significant facts.

10.26. A defendant's answer based on new factual allegations that will defeat the plaintiff's claim even if the plaintiff's allegation are proven is raising an affirmative defense.

10.27. Summary means quick, expedited, without going through a full adversary hearing.

10.28. 
(a) An alleged fact is a fact claimed to be true; one that a party will try to prove at trial.
(b) A stipulated fact is a fact that neither party will contest; they have agreed on the truth or falsity of that fact.
10.29. The following are formal discovery devices: depositions, interrogatories.

10.30.
(a) In an adversary hearing, both parties to a dispute are present before the judge to argue their positions.
(b) In an ex parte hearing, only one party is present.

10.31. To question a person in a deposition is to depose that person, who is referred to as the deponent.

10.32. A pretrial conference (also called a trial management conference) is a meeting of the attorneys and the judge (or magistrate) before the trial to attempt to narrow the issues, to secure stipulations, and to make a final effort to settle the case without a trial.

10.33. An issue of law is a question of what the law is, what the law means, or how the law applies to a set of facts. If the dispute is over the existence or nonexistence of the alleged facts, it is a question of fact, a factual issue, or an issue of fact.

10.34. Bias is prejudice for or against something or someone. An inclination or tendency to think or to act in a certain way. A danger of prejudgment.

10.35. False. A jury panel is a group from whom the individual jurors will be selected for a particular trial.

10.36. False. Opening statements are made at the beginning of the trial itself.

10.37.
(a) In a challenge for cause, specific reasons are given why a prospective juror should not become a juror. Each side has an unlimited number.
(b) In a peremptory challenge, no reasons need be given to eliminate a prospective juror. Each side has a limited number.

10.38. Stated in the order in which they occur: direct examination, cross-examination, redirect examination, closing argument.
10.39. False. The redirect of a witness is conducted by the attorney who conducted the direct examination of that witness.

10.40. To qualify a person to give expert testimony, the person's background and experience must be shown in order to demonstrate his or her expertise in the particular area of his or her proposed testimony.

10.41.

(a) Burden of proof is the responsibility of establishing or proving something at trial.

(b) Standard of proof is the standard that tells you how convincing someone's version of a fact must before the trier of fact (usually the jury) can accept it as true.

10.42. Examples of standards of proof:

(a) beyond a reasonable doubt

(b) clear and convincing evidence

(c) preponderance of evidence

10.43.

(a) Bailiff: the court employee who keeps order in the courtroom and renders general administrative assistance to the judge

(b) Clerk: the court employee who assists the judge with record keeping and other administrative duties

(c) Magistrate: the judicial officer who has some but not all of the powers of a judge

10.44. The motions are made in the following order: motion for a directed verdict, motion for a judgment as a matter of law, motion for a new trial.

10.45. When a party has established enough evidence to make out a prima facie case, the case is allowed to go to the jury. The case, as presented, will prevail unless contradicted and overcome by contrary evidence.

10.46. When a judge delays making a ruling until another time, we say that the judge has taken the matter under advisement.
10.47. Another name for jury instructions is the charge.

10.48. A fact is established by a preponderance of evidence when it is more likely than not that the fact is as the party alleges it to be.

10.49.

(a) A judgment is the final conclusion of a court that resolves a legal dispute or that specifies what further proceedings are needed to resolve it.

(b) A verdict is the final conclusion of the jury.

10.50. If a motion for directed verdict is granted, the judge has decided not to allow the jury to deliberate because only one verdict is reasonable. Called a judgment as a matter of law (see this phrase) in federal court and in some state courts.

10.51. A state judge changes the verdict of the jury when the judge grants a motion for a judgment notwithstanding the verdict. (In federal court, the motion is for a judgment as a matter of law.)

10.52. A declaratory judgment is a binding judgment that declares rights, status, or other legal relationships without ordering anything to be done.

10.53. False. No evidence is introduced during the closing argument.

10.54. False. Adjournment is simply a temporary halt in the proceedings.

10.55. Timely means within the time set by contract or law.

10.56. To delay or suspend the execution of a judgment is to stay its enforcement.

10.57. A bond is an obligation to perform an act (e.g., payment a sum of money) upon the occurrence or nonoccurrence of a designated condition.

10.58. False. A dismissal without prejudice is not on the merits. Only the latter can be res judicata.
10.59. To correct a mistake or error is to *[cure]* the mistake or error.

10.60.

(a) The appellant is the party bringing the appeal.

(b) The respondent is the party against whom the appeal is brought.

(c) Appellee is another name for respondent.

10.61. False. Witnesses cannot give testimony on appeal. The case is not retried on appeal.

10.62. To ask an appellate court to review a case, the appellant files a notice of appeal.

10.63. When a case to be placed on the court’s docket, it is placed on the court’s calendar of pending cases.

10.64. A transcript is a word-for-word account, a written copy of oral testimony. Transcribed means taken down in a word-for-word account.

10.65.

(a) Oral argument is a spoken (oral) presentation to the court on a legal issue, e.g., telling an appellate court why the rulings of a lower tribunal were valid or were in error.

(b) Closing argument is a spoken (oral) final statement by opposing trial attorneys to the jury (or to the trial judge if there is no jury) summarizing the evidence and requesting a favorable decision.

10.66. En banc means by the entire court.

10.67. If the writ of certiorari is denied, the appellate court refuses to hear the appeal from the lower court so that the judgment of the latter stands.

10.68. If an appellate court sends a case back to a lower court, the case is *[remanded]* to the lower court.
10.69.
(a) majority opinion: the opinion whose result and reasoning are supported by at least half plus one of the judges on the court
(b) concurring opinion: the opinion written by less than a majority of the judges on the court that agrees with the result reached by the majority but not with all of its reasoning
(c) dissenting opinion: the opinion disagrees with the result and reasoning used by the majority

10.70. The record is the official collection of all the trial pleadings, exhibits, orders, and word-for-word testimony. (Additional meanings: (a) To make an official note of; to enter in a document. (b) The facts that have been inscribed or stored. (c) A collection of data fields that constitute a single unit, e.g., an employee record.)

10.71. If an appellate court agrees with what a lower court did, the appellate court will affirm the judgment below.

10.72. If counsel fails to object during the trial to a claimed error made by the trial judge, the objection is waived.

10.73.
(a) When you file a writ of certiorari, you are asking the appellate court to use its discretion to order the record of the case to be sent up so that the court can hear the appeal.
(b) When you appeal as a matter of right, you are asking the appellate court to hear the appeal of a case that the court must hear.

10.74. A mandate is the order of the court.

10.75. When a judgment is satisfied, it is complied with, e.g., paid.

10.76.
(a) A felony is a crime punishable by a sentence of death or imprisonment for a term exceeding a year. A felony is a crime more serious than a misdemeanor.
(b) A misdemeanor is a crime, not as serious as a felony, punishable by fine or by detention in an institution other than a prison or penitentiary.
10.77. Indigent means a person who is without funds to hire a private attorney. Impoverished.

10.78. Bail: (1) Money or other property deposited with the court as security to ensure that the defendant will reappear at designated times. Failure to appear forfeits the security. (2) Release of the defendant upon posting this security.

10.79. The effect of nolle prosequi is the dropping of criminal charges. The prosecutor has announced an unwillingness to prosecute the case.

10.80. 
(a) grand jury: a jury of inquiry (not a trial jury) that receives accusations in criminal cases, hears the evidence of the prosecutor, and issues indictments when satisfied that a trial should be held

(b) trial jury: the jury that decides the questions of fact at a particular trial

10.81. Probable cause exists when there is a reasonable basis to believe a crime has been committed and that the defendant is guilty of the crime.

10.82. Order in which the events occur: arrest, arraignment, preliminary hearing, indictment by grand jury, voir dire

10.83. Prosecution:
(1) Bringing and processing criminal proceedings against someone.

(2) The attorney representing the government in a criminal case, also called the prosecutor.

(3) Bringing and processing civil proceedings against someone.

10.84. A criminal defendant who does not have to post bail is released on his or her personal recognizance.

10.85. When a defendant charged with murder agrees to plead guilty to a charge of criminal assault in exchange for dropping the murder charge, the defendant is engaging in plea bargaining.
10.86. Relevant: (1) Logically tending to establish or disprove a fact. Pertinent. Relevant evidence is evidence having any tendency to make the existence of a fact more probable or less probable than it would be without the evidence. (2) Contributing to the resolution of a problem or issue. The noun is relevancy.

10.87. Impeach means to challenge, to attack the credibility of someone.

10.88. Other terms for hearing examiner: administrative law judge (ALJ), referee, hearing officer.

10.89. Before you are allowed to appeal an agency decision in court, you must exhaust your administrative remedies.

10.90.
(a) A court of appeals is a judicial tribunal (a court) to which an appeal is taken.
(b) A board of appeals is a unit within an administrative agency to which a party can appeal a decision of the agency.

10.91. A trial de novo is a new trial as if a prior one had not taken place.

10.92. ADR stands for alternative dispute resolution.

10.93. Forms of ADR:
(a) arbitration
(b) mediation
(c) private judging
(d) med-arb
(e) neighborhood justice center
(f) summary jury trial
(g) neutral evaluation
10.94.

(a) arbitration: a method of alternate dispute resolution (ADR) in which the parties avoid litigation by submitting their dispute to a neutral third person (the arbitrator) who renders a decision resolving the dispute

(b) mediation: a method of alternate dispute resolution (ADR) in which the parties avoid litigation by submitting their dispute to a neutral third person (the mediator) who helps the parties resolve their dispute but does not render a decision resolving it for them

10.95. Using arbitration after trying mediation is called **med-arb**.

10.96. In a summary jury trial, the attorneys argue their case before an **advisory** jury.

10.97. Neutral evaluation is a method of alternative dispute resolution (ADR) in which both sides hire an experienced attorney or an expert in the area involved in the dispute who will listen to an abbreviated version of the evidence and arguments of each side and offer an evaluation in the hope that this will stimulate more serious settlement discussions. Sometimes called case evaluation.

10.98. Pretrial tasks in which litigation paralegal can be involved:

(a) drafting pleadings

(b) service of process and court filings

(c) calendar control and scheduling

(d) discovery

(e) preparing trial notebook

(f) settlement

(g) working with expert witnesses

(h) interviewing

(i) investigation

(j) legal research

10.99. Components of many complaints:

(a) caption

(b) designation of pleading
(c) statement of jurisdiction
(d) body
(e) prayer for relief
(f) subscription
(g) verification

10.100. False. Only some courts require that complaints allege subject matter jurisdiction.

10.101.
(a) In fact pleading, you state the ultimate facts that set forth the cause of action (no conclusions of law). A fact is ultimate if it is essential to establish a cause of action.
(b) In notice pleading, you give a short and plain statement of the claim showing that you are entitled to relief. You do not have to allege every ultimate fact.

10.102. False. When the court requires a verification, the client verifies it.

10.103. A template is a set of formulas created to perform a designated task. Some software programs (e.g., Word, WordPerfect) have created such templates for use in drafting pleadings.

10.104. Example of substituted service: using registered mail.

10.105. A subpoena is a command to appear at a certain time and place.

10.106.
(a) subpoena duces tecum: a command that a witness appear at a certain time and place and bring specified things such as documents or records
(b) subpoena ad testificandum: a command to appear at a certain time and place to give testimony

10.107. A civil cover sheet is a sheet filed in federal court along with the complaint indicating the names and addresses of the parties and their attorneys, the kind of action being filed, etc.
10.108. A docket number is a consecutive number assigned to a case by the court and used on all documents filed with the court during the litigation of that case.


10.110. PDF (portable document format) is a file format consisting of an electronic image of a document that preserves the features or elements of the document (e.g., its line spacing, photographs, font size) that existed before it was converted into a digital document.

10.111. Public Access to Court Electronic Records (PACER) is an electronic public access service that allows subscribers to obtain case and docket information from federal courts via the Internet (pacer.psc.uscourts.gov).

10.112. A demand letter is an advocacy letter that asks the recipient to take or refrain from specific action affecting the client.

10.113. The function of a tickler is to provide reminders of important dates.

10.114. Discovery devices:
(a) interrogatories
(b) deposition
(c) production of documents and things; entry on land for inspection and other purposes
(d) physical or mental examination
(e) request for admission

10.115. The deposition is not limited to parties. Nonparties can be deposed.

10.116. Workers whose main job is to digest depositions are sometimes called depo summarizers.

10.117. A Bates stamp is a desk tool used to place a sequential number on a page. After using the stamp on a page, it automatically advances to the next number, ready to stamp the next page.
10.118. E-evidence is evidence generated or stored in a computer such as e-mail messages, online spreadsheets, Web pages, and database records.

10.119. An evidence log is an ongoing record that provides identification and other data about documents and other tangible objects that might eventually be introduced into evidence.

10.120. Three kinds of discovery digests:

(a) page/line digest: a summary of a deposition transcript that indicates the pages and lines of the deponent's answers in the order in which the questions were asked

(b) chronological digest: a summary of a deposition transcript that presents the events described in the deponent's answers in their chronological order

(c) topical digest: a summary of a deposition transcript organized by specific topics covered in the answers of the deponent

10.121. When you quote testimony, you use the exact words of the witness. When you paraphrase testimony, you put the testimony of the witness in your own words.

10.122. A collection of documents, arguments, and strategies an attorney plans to use during a trial.

10.123.

(a) table of contents

(b) things to do

(c) trial schedules/deadlines

(d) trial team street addresses, phone numbers, e-mail addresses

(e) case outline

(f) statement of facts

(g) pleadings

(h) trial briefs/trial memoranda

(i) law

(j) outline of liability

(k) our exhibits
(l) opposition exhibits
(m) our witnesses
(n) opposition witnesses
(o) witness statements
(p) requests for production and responses
etc.

10.124. Paralegal tasks concerning expert witnesses:
(a) Locate potential experts for consideration.
(b) Draft a formal engagement letter.
(c) Become a contact with the witness when the latter is not dealing directly with the trial attorney.
etc.

10.125. Paralegal tasks during a trial:
(a) Act as file monitor.
(b) Do spot legal research.
(c) Prepare preliminary drafts of motions.
(d) Assist in preparing witnesses.
(e) Assist with trial exhibits.
etc.

10.126. A timeline is a chronological presentation of significant events, often organized as a straight-line diagram.

10.127. Shadow jurors are persons hired by one side to observe a trial as members of the general audience and, as the trial progresses, to give feedback to a jury consultant hired by the attorney of one of the parties, who will use the feedback to assess strategy for the remainder of the trial.
10.128. Paralegal tasks when reading trial transcripts:

(a) List the times and places your attorney objected during the trial.

(b) List the objections of opposing counsel.

(c) List the times the judge asked questions of witnesses.

10.129. The execution of the judgment is the process of carrying out or enforcing the judgment.

10.130. Cite checking involves examining citations in a document to assess whether the format of the citation is correct, whether a parallel cite is needed, whether quoted material is accurately quoted, and whether the law cited is still valid.

10.131. Attempting to locate the assets of the judgment debtor.
Answers to Review Questions on Chapter 11

Legal Research

(The Review Questions for Chapter 11 are within this study guide.)

11.1. False. You still must know basic research techniques. The intelligent use of computers requires an understanding of the fundamental techniques of traditional legal research.

11.2. Online: (1) Connected to another computer or computer network, often through the Internet. (2) Residing on a computer and available for use; activated and ready for use on a computer.

11.3. The law you learn in school may be outdated by the time you are working as a paralegal.

11.4. Hypertext is a method of displaying and linking information found in different locations on the same site or on different sites of the World Wide Web.

11.5. The Internet is largely unregulated. What you find on it may not be current or accurate.

11.6.
(a) primary authority: any law that a court could rely on in reaching its decision
(b) secondary authority: any nonlaw a court could rely on in reaching its decision

11.7. A federal depository library is a public or private library that receives free federal government publications to which it must allow access by the general public without cost.

11.8. Four main functions of legal materials:
(a) materials that contain the full text of the law
(b) materials that can be used to locate the law
(c) materials that help you understand the law
(d) materials that help you determine the current validity of the law
11.9. Opinions:
(a) materials that contain their full text: reports, reporters, Westlaw, LexisNexis, etc.
(b) materials that help locate them: digests, annotations, etc.
(c) materials that help understand them: legal periodicals, etc.
(d) materials that help determine current validity: Shepard’s, KeyCite, etc.

11.10. Statutes:
(a) materials that contain their full text: statutory code, statutes at large, etc.
(b) materials that help locate them: index volumes of code, etc.
(c) materials that help understand them: legal periodicals, etc.
(d) materials that help determine current validity: Shepard’s, KeyCite, etc.

11.11. Constitutions:
(a) materials that contain their full text: statutory code, Westlaw, LexisNexis, etc.
(b) materials that help locate them: index volumes of code, etc.
(c) materials that help understand them: legal periodicals, etc.
(d) materials that help determine current validity: Shepard’s, KeyCite, etc.

11.12. Major formats of legal research: (a) paper, (b) online, (c) CD-ROM, (d) microform

11.13. CALR means computer-assisted legal research.

11.14. Traditional paper media for legal materials:
(a) pamphlets
(b) hardcover volumes (fixed pages)
(c) hardcover volumes (looseleaf)

11.15. A looseleaf service is a law book with a binding (often three-ringed) that allows easy inserting and removal of pages for updating.
11.16. Something is in the public domain if it is accessible to anyone at no cost because it is not protected by copyright or patent.

11.17. CD-ROM (compact disk with read-only memory) is a compact disk that stores data in a digital format.


11.19. True and false. Although there are many standard definitions, there are a few important exceptions such as the meaning of supreme court.

11.20. False. The statement is usually true, but there is a digest in Minnesota that is a state encyclopedia rather than a traditional digest.

11.21. Summaries of opinions are sometimes called abstracts or squibs and are published in digests, among other places.

11.22.

(a) slip law: a single act passed by the legislature and printed in a single pamphlet

(b) session laws: the uncodified statutes of the legislature printed chronologically rather than by subject matter

(c) statutory code: a collection of statutes organized by subject matter rather than by date

11.23. A collection of administrative regulations organized by subject matter rather than chronologically or by date is called an administrative code.

11.24. Advance or advance sheet refers to a pamphlet that comes out prior to (in advance of) a later volume.

11.25.

(a) advance sheet for reporters: prints opinions before they are printed in hardcover reporter volumes

(b) advance sheet for Shepard's: prints citator information prior to its being printed in larger Shepard's pamphlets and hardcover volumes

(c) advance sheet for statutory code: prints the most current statutes before they are printed in a statutory code.
11.26. Legislative Service or Advance Session Law Service

11.27.
(a) American Law Reports 1st (A.L.R. or A.L.R. 1st)
(b) American Law Reports 2d (A.L.R.2d)
(c) American Law Reports 3d (A.L.R.3d)
(d) American Law Reports 4th (A.L.R.4th)
(e) American Law Reports 5th (A.L.R.5th)
(f) American Law Reports 6th (A.L.R.6th)
(g) American Law Reports Federal (A.L.R. Fed.)
(h) American Law Reports Federal 2d (A.L.R. Fed. 2d)

11.28. An annotated reporter is a set of books that contains the full text of court opinions plus commentary on them called annotations.

11.29. The American Digest System gives short summaries of the court opinions of every federal and state court that publishes its opinions.

11.30.
(a) General Digest
(b) Decennial Digests
(c) Century Digest

11.31.
(a) useful as background reading before beginning legal research in a new area of the law
(b) good case finders because of its extensive footnotes to court opinions
(c) provides cross references to other publications of the same publisher (West Group) on the topic you are reading in the legal encyclopedia
11.31a.

(a) In general, an annotation is a note or commentary that summarizes or explains something.

(a) An annotation in A.L.R. is a research paper based on one of the opinions printed in one of the eight sets of A.L.R.

11.32. You are being sent to the eight sets of American Law Reports

11.33. An annotated statutory code is a collection of statutes organized by subject matter rather than by date, along with research references such as historical notes and summaries of court opinions that have interpreted the statutes.

11.34. (a) Ann. (b) A.

11.35. An annotated bibliography is a list of research references along with a brief commentary on each reference.

11.36. Atlantic Digest

11.37. Auto-Cite is an online citator of LexisNexis that tells you whether an opinion you are checking is still good law.

11.38. ALWD Citation Manual

11.39. A bill is a proposed statute.

11.40. The steps a bill goes through to become a law is its legislative history.

11.41.

(a) Bluebook: A Uniform System of Citation: contains rules of citation form

(b) National Reporter Bluebook: provides parallel cites to court opinions

(c) A.L.R. Blue Book of Supplemental Decisions: updates the annotations in A.L.R.1st

(d) a directory of government offices and employees
11.42. Blue and White Book

11.43.

(a) Congressional Record ................................................................. iv
(b) Am Jur 2d ................................................................. vi
(c) A.L.R.5th ................................................................. vii
(d) National Reporter Blue Book .................................................... ii
(e) Uniform System of Citation ...................................................... i
(f) A.L.R. Blue Book of Supplemental Decisions ......................... v
(g) amicus curiae ................................................................. iii

11.44.

(a) brief of a case: a summary of the major components of a court opinion
(b) amicus curiae brief: a friend-of-the-court appellate brief submitted by permission by a nonparty to the litigation
(c) trial brief: an attorney’s personal notes on how he or she will conduct a trial (In some states, a trial brief is a written argument presented to a court in support of a motion)
(d) appellate brief: a document submitted (filed) to an appellate court (and served on the opposing party) in which arguments are presented on why the appellate court should affirm (approve), reverse, or otherwise modify what a lower court has done.

11.45. A bulletin is an ongoing (e.g., monthly) publication that prints documents of administrative agencies chronologically (e.g., Internal Revenue Bulletin). Also called register, gazette, journal.

11.46. Cal. Rptr. (the California Reporter) is an unofficial reporter of West Group that prints opinions of California state cases.

11.47.

(a) a court opinion
(b) a pending matter before a court
(c) any client matter in a law office, whether or not litigation is involved
11.48. A docket is a list of pending cases on a court calendar.

11.49. Reporters contain the full text of court opinions. (There are a few reporters, however, that print administrative decisions.)

11.50.
(a) An official reporter is printed under the authority of the government, often by a government printing office.
(b) An unofficial reporter is printed by a commercial publishing company without special authority from the government.

11.51. The National Reporter System consists of unofficial reporters.

11.52.
(a) slip opinion
(b) advance sheet
(c) reporter - official
(d) reporter - unofficial
(e) looseleaf service
(f) legal newspaper
(g) legal newsletter
(h) microforms
(i) CD-ROM
(j) online: fee-based
(k) online: free

11.53. An unpublished opinion (also called unpublished case) is an opinion designated by the court as not for official publication even though you may be able to read it online or in special reporters.

11.54. Federal Appendix, Westlaw, LexisNexis
11.55. Federal Appendix (F. App’x.) is a West Group reporter that prints unpublished opinions of some U.S. courts of appeals

11.56.
(a) United States Reports
(b) Supreme Court Reporter
(c) United States Supreme Court Reports, Lawyers’ Edition
(d) United States Law Week

11.57. Opinions of the U.S. Courts of Appeals

11.58. Opinions of the U.S. District Courts

11.59.
(a) L.Ed.2d - U.S. Supreme Court Reports, Lawyers’ Edition, Second Series
(b) S.E.2d - South Eastern Reporter, Second Series
(c) U.S. - United States Reports
(d) F.R.D. - Federal Rules Decisions
(e) S. Ct. - Supreme Court Reporter
(f) M.J. - Military Justice Reporter
(g) F.3d - Federal Reporter, Third Series
(h) P. - Pacific Reporter, First Series
(i) P.2d - Pacific Reporter, Second Series
(j) N.Y.S.2d - New York Supplement, Second Series
(k) U.S.L.W. - United States Law Week
(l) So. 2d - Southern Reporter, Second Series
(m) A.L.R.4th - American Law Reports, Fourth Series

11.60. United States Reports. Its abbreviation is U.S.
11.61.
(a) Bureau of National Affairs (BNA)
(b) West Group
(c) West Group
(d) West Group
(e) West Group
(f) West Group

11.62. False. Some states have discontinued their official reports and rely on the unofficial reporter.

11.63.
(a) Atlantic Reporter
(b) North Eastern Reporter
(c) North Western Reporter
(d) Pacific Reporter
(e) South Eastern Reporter
(f) Southern Reporter
(g) South Western Reporter

Each of these reporters has a first series and a second series. Some have a third series.

11.64.
(a) Maine - Atlantic Reporter
(b) Ohio - North Eastern Reporter
(c) Nebraska - North Western Reporter
(d) Oregon - Pacific Reporter
(e) Virginia - South Eastern Reporter
(f) Florida - Southern Reporter
(g) Missouri - South Western Reporter
11.65. (a) Atlantic Reporter has the Atlantic Digest  
(b) North Western Reporter has the North Western Digest  
(c) Pacific Reporter has the Pacific Digest  
(d) South Eastern Reporter has the South Eastern Digest

11.66. (a) North Eastern Reporter, (b) New York Supplement

11.67. (a) Pacific Reporter, (b) California Reporter

11.68. (a) North Eastern Reporter, (b) Illinois Decisions

11.69. N.Y.S. (New York Supplement) is not a regional reporter because it does not print the opinions of a cluster of states in a particular region of the country. N.Y.S. (and N.Y.S.2d) prints only New York State opinions.

11.70. (a) A regional reporter prints the opinions of state courts in a particular region of the country.  
(b) A special edition state reporter prints the opinions of only one state. The pages containing these opinions come directly out of the regional reporter of which the state is a part.

11.71. An offprint reporter is another name for a special edition state reporter.

11.72. False. Opinions in most reporters are printed in rough chronological order—not by subject matter. There are some reporters, however, that print opinions on limited subjects, e.g., Bankruptcy Reporter.

11.73. digests

11.74. Law school classroom textbooks are called casebooks.

11.75. The Century Digest contains short summaries of court opinions written prior to 1897.
11.76. CIS stands for Congressional Information Service. It allows you to trace legislative histories of federal statutes.

11.77.

(a) Citation: a reference to any material printed on paper or stored in a computer database

(b) Citator: a book, CD-ROM, or online service containing lists of citations that can (a) help you assess the current validity of an opinion, statute, or other item and (b) give you leads to additional relevant materials

(c) Parallel cite: an additional citation where you can find the same written material in the library or online

11.78. A public domain citation is a citation that is medium neutral (meaning that it can be read in a paper volume or online) and vendor neutral (meaning that it does not contain volume, page, or other identifying information created by particular vendors such as a commercial publisher). Also called generic citation.

11.79.

(a) Shepard’s on LexisNexis

(b) KeyCite on Westlaw

(c) GlobalCite on Loislaw

11.80.

(a) to assess the current validity of what you are checking

(b) to locate leads to other relevant materials

11.81. CLE materials are Continuing Legal Education materials (texts, videos, Web tutorials, etc.) on legal subjects that are used after one’s formal legal education.

11.82. A code is a collection of laws or rules classified by subject matter regardless of when they were enacted. More broadly, a code is any set of rules that regulates conduct.

11.83.

(a) Codified means to arrange laws or rules by subject matter regardless of when it was passed or enacted.

(b) Uncodified means to arrange something chronologically.
11.84.
(a) statutes
(b) administrative regulations

11.85.
(a) slip law
(b) session law or statute at large

11.86. False. Reporters are not codified. The cases in them are printed in rough chronological order, not by subject matter.

11.87. Code of Federal Regulations

11.88. Federal Register

11.89. e-CFR (Electronic Code of Federal Regulations)

11.90. The Congressional Record is an official collection of the proceedings and debates of the U.S. Congress. It also contains items that are relevant only to the constituencies of individual legislators.

11.91. False. C.J.S. is not a digest; it is a national legal encyclopedia.

11.92. C.J.S.:
(a) is useful as background reading before beginning legal research in a new area of the law
(b) is a good case finder because of its extensive footnotes to court opinions
(c) provides cross-references to other publications of the same publisher (West Group) on the same topic you are reading in the legal encyclopedia

11.93. Cumulative means that which repeats earlier material and consolidates it with new material in one place or unit. An example is a pocket part in a statutory code. A cumulative supplement contains new supplemental material and repeats earlier supplemental material.
11.94.

(a) If the three pamphlets are cumulative, you need to check only the most recent pamphlet because it includes all the material in the other two pamphlets.

(b) If the three pamphlets are not cumulative, you must check all three because each pamphlet contains different material that has not been consolidated into the most recent pamphlet.

11.95. CLI (the Current Law Index) serves as a comprehensive general index to legal periodical literature.

11.96.

(a) paper (pamphlets and bound volumes)

(b) CD-ROM and online (where it is called LegalTrac)

(c) on Westlaw and LexisNexis it is called Legal Resource Index

11.97. The Decennial Digest contains summaries of court opinions written by every federal and every state court that publishes its opinions. The period covered by the Decennial Digest is ten years (or two five-year periods for recent decennial digests).

11.98. Digests contain brief summaries (organized by subject matter) of the opinions printed in full in reporters. As such, the digests serve as case finders and indexes to the opinions in the reporters.

11.99. False. No digests contain the full text of opinions; only reporters do.

11.100. The organizational principle is the key number system. West Group divides all of law into over 400 general topics, each of which is further classified into subtopics. Each subtopic is assigned a number. A key number consists of a general topic and the number of the subtopic. Cases on the same issues are summarized under the same key number, allowing researchers to find cases on the issues relevant to their research.

11.101. The headnotes at the beginning of cases in West Group reporters and the brief paragraphs in West Group digests are the same. West Group prints the headnotes at the beginning of opinions in West Group reporters and in West Group digests.

11.102. Summaries of cases in digests are called abstracts or squibs.
11.103.
(a) a general topic
(b) a number of a subtopic

11.104.
(a) a national digest (the American Digest System) covering most state and federal courts; the system includes three digests: Century Digest, Decennial Digests, General Digests
(b) federal digests covering only federal courts; example: Practice Digest 4th
(c) regional digests covering the courts found in the regional reporters; example: Atlantic Digest
(d) digests of individual states; examples: Alaska Digest, Arizona Digest, California Digest, etc.

11.105.
(a) American Digest System
(b) Century Digest (prior to 1897); Decennial Digests (ten-year periods; recent Decennials cover two five-year periods); General Digest (the period since the date of the most recent Decennial)

11.106. West Group digests and A.L.R. annotations are similar in that they both summarize case law extensively and therefore are good case finders.

11.107.
(a) United States Supreme Court Digest
(b) Federal Digest
(c) Modern Federal Practice Digest
(d) Federal Practice Digest 2d
(e) Federal Practice Digest 3d
(f) Federal Practice Digest 4th

11.108.
(a) U.S. Supreme Court
(b) U.S. Courts of Appeals
(c) U.S. District Courts
11.109. A regional digest is a digest that contains summaries of those court opinions that are printed in its corresponding regional reporter.

11.110. A k number in Westlaw and a key number in West Group digests will both refer you to summaries of the same cases. Every digest key number has a corresponding k number.

11.111.

(a) A U.S. District Court:
   – American Digest System
   – Federal Digest
   – Modern Federal Practice Digest
   – Federal Practice Digest 2d
   – Federal Practice Digest 3d
   – Federal Practice Digest 4th
   – Individual state digests (for U.S. District Court cases relevant to that state)

(b) The highest state court in California:
   – American Digest System
   – Pacific Digest
   – California Digest

(c) A U.S. Court of Appeals
   – American Digest System
   – Federal Digest
   – Modern Federal Practice Digest
   – Federal Practice Digest 2d
   – Federal Practice Digest 3d
   – Federal Practice Digest 4th
   – Individual state digests (for U.S. Court of Appeals cases relevant to that state)
(d) The U.S. Supreme Court
   – American Digest System
   – Federal Digest
   – Modern Federal Practice Digest
   – Federal Practice Digest 2d
   – Federal Practice Digest 3d
   – Federal Practice Digest 4th
   – Individual state digests (for U.S. Supreme Court cases relevant to that state)

11.112.
(a) Atlantic Digest
(b) North Western Digest
(c) Pacific Digest
(d) South Eastern Digest

11.113. The C.F.R. prints the adopted (i.e., enacted) administrative regulations that are first proposed in the Fed. Reg.

11.114. The F.R.D. (Federal Rules Decisions) is a reporter that contains opinions of the U.S. District Courts on issues of civil and criminal procedure, plus articles and speeches on federal procedural issues.

11.115. Practice manuals

11.116. The General Digest contains summaries of court opinions written by every federal and every state court that publishes its opinions. The period covered by the General Digest is the period since the date of the last Decennial Digest.

11.117. Everything in the General Digest volumes will eventually printed in—consolidated into—the next Decennial Digest, at which time the General Digest volumes can be thrown away.

11.118. (a) a consecutive number, (b) a key number
11.119. ILP (Index to Legal Periodicals and Books) is an index to the legal periodical literature.

11.120.
(a) pamphlets and bound volumes
(b) online

11.121.
(a) Internet is a worldwide electronic network of networks on which millions of computer users can share information.
(b) Network is a group of computers that are linked or connected together by telephone lines, fiber-optic cables, satellites, or other systems.

11.122.
(a) court opinions
(b) statutes
(c) administrative regulations
(d) treaties
(e) court addresses
(f) directories of attorneys

11.123. www.uscourts.gov

11.124. Hypertext provides a method of displaying and linking information found in different locations on the same site or on different sites of the World Wide Web.

11.125. An intranet is a private network of computers within a particular firm, company, or other organization, established so that the computers can share information online, often using features similar to those of the World Wide Web. If selected outside people have access, it is called an extranet.

11.126. An interstate compact is an agreement between two or more states governing a problem of mutual concern, such as the resolution of a boundary dispute.
11.127. KeyCite is an online citator found on Westlaw that competes with Shepard's.

11.128. Words and Phrases

11.129.

(a) American Jurisprudence 2d

(b) Corpus Juris Secundum

11.130. A special interest legal periodical (published daily, weekly, etc.) covering practical suggestions and current developments in a particular area of the law.

11.131.

(a) local legal newspapers

(b) national legal newspapers

11.132.

(a) court dockets (calendars)

(b) the full text of selected opinions of local courts

(c) information on new court rules (rules of court)

(d) job announcements

11.133.

(a) academic legal periodical

(b) commercial legal periodical

(c) bar association legal periodical

11.134.

(a) law reviews

(b) law journals
11.135. To be “on law review” means to be selected to do writing and editing for an academic legal periodical.

11.136.
(a) legal periodicals that are general in scope covering a wide variety of legal topics
(b) legal periodicals that are special-interest in scope covering specific subject areas

11.137.
(a) ILP (Index to Legal Periodicals and Books)
(b) CLI (Current Law Index)

11.138.
(a) provides word alternatives for words used in legal writing.
(b) helps identify word alternatives to use in forming queries for computer-assisted legal research.

11.139. False. Some legal treatises are written by public officials who are writing as private citizens rather than as government employees.

11.140. Another name for statutes is legislation.

11.141.
(a) A public law is a statute that applies to the general public or to a segment of the public and has permanence and general interest.
(b) A private law is a statute that applies to specifically named individuals and has little or no permanence or general interest.

11.142.
(a) slip laws
(b) session laws
(c) codified laws (statutory code)
11.143.  
(a) slip laws  
(b) session laws  

11.144. LexisNexis is a commercial fee-based computer-assisted legal research service.  

11.145. A looseleaf service is a law book with a binding (often three-ringed) that allows easy inserting and removal of pages for updating.  

11.146.  
(a) gives an alphabetical listings of attorneys and law firms by state and city  
(b) gives short summaries of the law of all fifty states  
(c) gives short summaries of the law of many foreign countries  

11.147. www.martindale.com  

11.148. The reporters of the West Group that cover the opinions of state courts (e.g., the seven regional reporters such as A.2d) and federal courts (e.g., S. Ct., F.3d). The reporters use key numbers to classify the issues in the opinions.  

11.149. The New York Supplement 2d (N.Y.S.2d) is a reporter of West Group that publishes court opinions of state courts in New York.  

11.150. North Western Digest summarizes cases in the North Western Reporter.  

11.151. The Pacific Digest summarizes cases in the Pacific Reporter.  

11.152. A nutshell is a legal treatise in pamphlet form that summarizes a topic often covered in a law school course.  

11.153. North Western Reporter and Pacific Reporter have regional digests; North Eastern Reporter does not.
11.154. Pattern Jury Instructions are suggested instructions that can be adapted to specific trials.

11.155. A pocket part is a pamphlet inserted into a small pocket built into the inside back (and occasionally front) cover of a hardcover volume. The pamphlet contains text that supplements or updates the material in the hardcover volume.

11.156. A public domain citation is medium neutral (meaning that it can be read in a paper volume or online) and vendor neutral (meaning that it does not contain volume, page, or other identifying information created by particular vendors such as a commercial publisher).

11.157. The record is the official collection of what happened during the trial covering a transcript of testimony, pleadings, exhibits, etc.

11.158. A regional digest summarizes cases in a regional reporter.

11.159. A register is a regularly published collection of regulations and other documents of administrative agencies and the chief executive.

11.160. Reporters contain the complete text of court opinions.

11.161. False. Official reporters are published under the authority of the government.

11.162. Restatements are treatises of the American Law Institute that state the law and indicate changes in the law that the Institute would like to see implemented. Examples:

- Restatement of Agency
- Restatement of Conflicts of Law
- Restatement of Contracts
- Restatement of Foreign Relations Law

11.163. Before a final Restatement is issued, it is often published as tentative draft.
11.164. Court rules are also called rules of court.

11.165. 
(a) A new edition is a revision of an earlier version of a book or set of books.
(b) A new series refers to a new numbering order within the same set of books.

11.166. False. Session laws are printed chronologically. Codes are printed by subject matter.

11.167. Public laws are also called public statutes.

11.168. Private laws are also called private statutes.

11.169. When public laws are codified, they are arranged by subject matter in a code.

11.170. Shepardizing means to use Shepard's citations (in book form, on CD-ROM, or online) to obtain validation and other data on whatever you are shepardizing.

11.171. 
(a) book form
(b) CD-ROM
(c) online

11.172. 
(a) the parallel cite of the case
(b) the history of the case (e.g., appeals in the same litigation)
(c) the treatment of the case (e.g., other cases that have criticized the case)
(d) legal periodical literature on the case
11.173.
  (a) court opinions  
  (b) statutes  
  (c) constitutions  
  (d) some administrative regulations  
  (e) some administrative decisions  
  (f) ordinances  
  (g) charters  
  (h) rules of court  
  (i) some executive orders  
  (j) some treaties  
  (k) patents, trademarks, copyrights  
  (l) Restatements  
  (m) some legal periodical literature

11.174. False. All thirteen items (a–m) are cited materials, i.e., what you are shepardizing.

11.175.
  (a) Supreme Court Reporter: Shepard's United States Citations  
  (b) United States Code: Shepard's Federal Statute Citations  
  (c) Rhode Island Constitution: Shepard's Rhode Islands Citations  
  (d) Federal Supplement 2d: Shepard's Federal Citations  
  (e) F.3d: Shepard's Federal Citations  
  (f) C.F.R.: Shepard's Code of Federal Regulations Citations

11.176.
  (a) A slip law is a single act passed by the legislature; it is a statute.  
  (b) A slip opinion is the first printing of a single court opinion.
11.177.  
(a) All slip laws are later reprinted as session laws in volumes called Session Laws, Acts, Statutes at Large, etc. where they are printed chronologically, not by subject matter.  
(b) If a slip law is a public law or statute, it is also printed in a statutory code where it is printed by subject matter.

11.178. South Eastern Reporter has a regional digest. Southern Reporter and South Western Reporter do not.

11.179. The technique called star paging enables you to find the corresponding official page number for a page in an unofficial reporter.

11.180. With vendor-neutral citation, text in cases will be identified by paragraph number rather than page number. You won’t have to worry about the same case being on different page numbers in different reporters. The paragraph numbers will be the same in all reporters.

11.181. Statutes at Large consist of an uncodified printing of statutes. (Another correct response: chronological.)

11.182.  
(a) code: you learn that they are organized by subject matter.  
(b) annotated: you learn that notes or commentaries accompany the full text of the statutes

11.183. An official statutory code is printed under the authority of the government. An unofficial statutory code is printed by a commercial printing company without special authority from the government.

11.184. Summaries of cases that have interpreted statutes in an annotated code are often called notes of decisions.

11.185. www.gpoaccess.gov/uscode

11.186.  
(a) Westlaw  
(b) LexisNexis  
(c) Loislaw

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11.187.
(a) United States Code* (the official code)
(b) United States Code Annotated
(c) United States Code Service

11.188.
(a) U.S.C.: by supplement volumes
(b) U.S.C.A.: by pocket parts
(c) U.S.C.S.: by pocket parts

11.189.
(a) National Conference of Commissioners on Uniform State Laws
(b) Uniform state laws are proposals for laws in areas where uniformity across state lines is deemed appropriate.

11.190.
(a) Table 2 translates a Statute at Large cite into a U.S.C./U.S.C.A./U.S.C.S cite.
(b) Table 4 gives leads to the legislative history of federal statutes.

11.191. United States Law Week

11.192. United States Reports

11.193. Preliminary Prints


11.195. Westlaw is a fee-based system of computer-assisted legal research owned by West Group.

11.196. Words and Phrases
11.197.
(a) Primary authority is any law that a court can rely on in reaching its decision.
(b) Secondary authority is any nonlaw that a court can rely on in reaching its decision.

11.198. False. Only primary authority—laws—can be mandatory authority.

11.199. True. If primary authority (e.g., a court opinion) is not mandatory, a court might still decide to rely on it because the court finds it persuasive.

11.200. False. A statute is a law—primary authority. By definition, a statute is not be secondary authority.

11.201. False. Only laws can be primary authority. A Restatement is not a law; it is secondary authority. (It was written by the American Law Institute, which is not a court, legislature, or administrative agency.) Of course, a court can adopt a position in a Restatement as with a position in any secondary authority.

11.202. False. A digest is neither primary authority nor secondary authority; it is solely a finding aid and, as such, is nonauthority.

11.203. Legal and nonlegal periodical literature, legal encyclopedia and nonlegal encyclopedias, legal and nonlegal dictionaries, legal and nonlegal treatises.

11.204.
(a) statute
(b) constitutional provision
(c) ordinance
(d) administrative regulation

11.205.
(a) The statute is being applied in a geographic area over which the authors of the statute (the legislature) has power or jurisdiction.
(b) It was the intention of the legislature to cover the kinds of facts that are currently before the court.
(c) The application of the statute to these facts does not violate any superior law such as the constitution.
11.206. You are asking a question of legislative intent when you ask what the legislature intended by a particular clause or phrase in a statute.

11.207. False. This is only one of the three conditions that must be met before a statute can be mandatory authority. The two other conditions are as follows: the statute is being applied in a geographic area over which the authors of the statute (the legislature) has power or jurisdiction and the application of the statute to these facts does not violate any superior law such as the constitution.

11.208. True if the administrative regulation covers an area entrusted to the U.S. (federal) government by the U.S. Constitution.

11.209. A statute of Congress superior in authority to state laws if the federal statute covers an area entrusted to the U.S. (federal) government by the U.S. Constitution.


(a) The opinion is analogous.

(b) The opinion was written by a higher court that is superior to the court currently considering the applicability of the opinion.

11.211. When the facts and issues in the opinion are sufficiently similar to the facts and issues in the dispute now before the court to justify reaching the same result in the dispute that was reached in the opinion.

11.212.

(a) pa

(b) pa

(c) ma

11.213. Stare decisis ("stand by things decided") means that courts should decide similar cases in the same way unless there is good reason for the court to do otherwise. In resolving an issue before it, a court should be reluctant to reject precedent—a prior opinion covering a similar issue.

11.214. A precedent is a prior decision covering a similar issue that can be used as a standard or guide in a later case.
11.215.  
(a) Subject matter jurisdiction is the power of a court to hear a particular kind or category of dispute.  
(b) Personal jurisdiction is the power of a court over a person to adjudicate his or her personal rights.

11.216. It must have subject matter jurisdiction and personal jurisdiction.

11.217. “Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.”

11.218. When the issue before the state court involves a federal question.

11.219. The Supremacy Clause in the U.S. Constitution says federal law controls over state or local law whenever a federal question is raised.

11.220. Diversity of citizenship exists when the disputing parties are citizens of different states and the amount in controversy exceeds $75,000. This diversity gives jurisdiction to a U.S. District Court.

11.221. When a court had diversity jurisdiction, it applies federal procedural law and state substantive law.

11.222. The forum is the court where a case is to be tried.

11.223. Dictum is a statement or observation made by a judge in an opinion that is not essential to resolve the issues before the court; comments that go beyond the facts before the court. Also called obiter dictum. (Dictum can also mean an authoritative, formal statement or announcement.)

11.224. Holding is the court’s answer to a specific question or issue that arises out of facts before the court.

11.225.  
(a) legal encyclopedias  
(b) nonlegal encyclopedias  
(c) legal dictionaries  
(d) nonlegal dictionaries
(e) legal periodicals
(f) nonlegal periodicals
(g) legal treatises
(h) nonlegal treatises
(i) form books, manuals, practice books
(j) looseleaf services
(k) legal newspapers
(l) nonlegal newspapers
(m) legal newsletters

11.226.

(a) The quote from the secondary authority is not a substitute for a direct quote from primary authority.
(b) The quote from secondary authority does not contradict any contrary mandatory authority.
(c) If the quote does contradict contrary mandatory authority, the court has the power to change this authority and there is a reasonable likelihood that it is inclined to do so.

11.227. Plagiarism is using another’s original ideas or expressions as one’s own.

11.228. An issue of first impression is new; it is coming before a court for the first time.

11.229. A citation (or cite) citation is a reference to any legal authority printed on paper or stored in a computer database that will allow you to locate the authority. As a verb, to cite something means to give its location (e.g., volume number, Web address) where you can read it. It is the paper or online “address” where you can read something.

11.230. False. Some states have rules of court or statutes on the citation format that must be used when submitting formal documents to a particular court in the state.

11.231.

(a) The Bluebook: A Uniform System of Citation
(b) ALWD Citation Manual
11.232. The functional purpose of a citation is to enable readers to locate in a library or online whatever you are citing.

11.233. If you open a law book that says, “Cite this book as....,” you should ignore this instruction. Instead, follow official citation rules, if any. If there are none, follow the rules in the Bluebook or the ALWD Citation Manual rules.

11.234.

(a) *Smith v. Jones*, 54 F.2d 679 (1980)

– In all F.2d (and F.3d) cases, the name of the court—here a U.S. Court of Appeals—must be abbreviated in the parenthesis before the year.

(b) *Thompson v. Yebbara*, 36 S.Ct 1276, 45 U.S.12, 17 L.Ed2d 7 (1945)

– Parallel cites are not needed for opinions of the U.S. Supreme Court. The U.S. cite is sufficient.


– If parallel cites had been required, the spacing would be S. Ct. (not S.Ct.) and L. Ed. 2d (not L.Ed2d).

– If parallel cites had been required, the U.S. cite would go first.

(c) *Donaldson v. Jackson*, 45 F.Supp. 547 (1965)

– In all F. Supp. (and F. Supp. 2d) cases, the name of the court—here a U.S. District Court—must be abbreviated in the parenthesis before the year.


(d) *Sampson v. Kelly*, 63 N.E.2d 122, 75 Mass. 790, 794 (1970). (Assume that a parallel cite is required for this cite.)

– The official (Mass.) cite should go before the unofficial (N.E.2d) cite.

– The pinpoint page number is missing in the N.E.2d cite. Note that the Mass. cite has two page references (790 & 794); The second page reference (794) is to specific text in the case. The N.E.2d cite should also have two page references. We need to know on what page of N.E.2d you will find the text that is on page 794 in volume 75 of Mass.

(e) *Nelson, Secretary v. ABC Company*, 50 F.2d 670 (4th Cir. 1980)

– The party's title (“Secretary”) should not be included in the cite.

– The word “Company” should be abbreviated (Co.).

11.235. An additional citation where you can find the same written material in the library or online.
11.236. A parallel cite to a case is an additional reference where you can find the same case or opinion. The same case on appeal is a reference to a different opinion within the same litigation.

11.237.

(a) Check the top of the caption.

(b) Shepardize the case in standard sets of Shepard’s Citations.

(c) Check Shepard’s Case Names Citator.

(d) Check the National Reporter Blue Book.

(e) Check the Table of Cases in a digest.

(f) Check commercial (fee-based) online services such as Westlaw and LexisNexis.

11.238. The names of the parties, the name of the court that wrote the opinion, the date of the decision, and other information about the litigation that led to the opinion.

11.239. False. Some opinions are printed only in the regional reporter because the official reporter has been discontinued.

11.240.

(a) No parallel cite exists.

(b) The reporter containing the parallel cite has not been printed yet.

(c) The parallel cite was given in one of the earlier volumes of Shepard’s and was not repeated in the volume you are examining.

11.241. The official cite is the cite to a official reporter, which is a reporter printed under the authority of the government. The unofficial cite is a cite to an unofficial reporter, which is a reporter printed by a commercial printing company without special authority from the government.

11.242. Check the National Reporter Blue Book.

11.243.

(a) U.S.: never (unless local rules of court require it)

(b) F.3d: never

(c) F. Supp. 2d: never
11.244. For state court opinions, provide a parallel cite if the local rules of the court to which you are submitting a document require the use of parallel cites. If they do not, it is generally sufficient to cite only to the unofficial reporter. Note that if the state has adopted public domain cites, you may be required to provide it along with the cite to the unofficial reporter.

11.245. If the abbreviation of a reporter in a cite is the abbreviation of the state, the case was written by the highest state court of that state.

11.246. In the parenthesis at the end of the cite before the date.

11.247. False. The official cite always goes first.

11.248. You need to abbreviate the name of the court after every F.3d cite and after every F. Supp. cite because the abbreviation of the reporter alone (F.3d or F. Supp. 2d) will not tell you which federal court appeals (or F.3d cases) or which federal district court (for F. Supp. 2d cases) wrote the opinion.

11.249. True, except that you need to abbreviate words in the business name, such as Corporation (Corp.), Incorporated (Inc.), Company (Co.), Limited (Ltd.), and Brothers (Bros.).

11.250. Use the words “State,” “Commonwealth,” or “People” for a party in a citation when these words refer to the same state as the state where the case is being litigated.

11.251. Davidson v. State

11.252. Davidson v. State of Georgia

11.253. In consolidated litigation, you cite the parties by using only the first party listed in the caption of the opinion.

11.254. False. Litigation status is not included in the cite.

11.255. In re (found in the caption of an opinion) means “in the matter of.”

11.256. Use the docket number in a citation unless the case is still pending.
11.257.  
(a) The history of a case is the subsequent history of the same litigation such as what has happened to the case on appeal.  
(b) The treatment of a case is how opinions that are not part of the same litigation have reacted to the case such as whether they have followed or criticized it.

11.258. When the case has been reversed (rev’d), affirmed on appeal (aff’d), certiorari accepted (cert. granted), or certiorari rejected (cert. denied).

11.259. A writ of certiorari (cert.) is an order (or writ) by a higher court that a lower court send up the record of a case because the higher court has decided to use its discretion to review that case.

11.260.  
(a) overrule: to reject or cancel an earlier opinion as precedent by rendering an opposite decision on the same question of law in a different litigation  
(b) reverse: to overturn a holding on appeal in the same litigation

11.261. A nominative reporter is a reporter volume that is identified by the name of the person responsible for compiling and printing the opinions in the volume.

11.262.  
(a) Check the table of cases in every digest that covers reporters containing the opinions of Illinois cases.  
(b) Call the clerk of the Supreme Court of Illinois (for relatively recent cases such as this one).  
(c) Go to the reporter volumes that prints cases of the Supreme Court of Illinois (such as N.E.2d). Check the table of cases in volumes that would probably cover 2008 cases.  
(d) Check Shepard’s Case Names Citator.  
(e) Check the Internet using the search terms in a general or legal search engine: Darby and Livingston (or go directly to the Internet site of the court that wrote the opinion—the Supreme Court of Illinois.  
(f) Check Westlaw, LexisNexis, or Loislaw using the search terms: Darby and Livingston.

11.264. A pinpoint cite is a reference to material on a specific page number within a document (e.g., a court opinion or legal periodical article) as opposed to the page number on which the document begins. Also called a jump cite. In citations with parallel cites, the official and the unofficial reporters should have pinpoint cites. In some court opinions, the pinpoint reference is to a specific paragraph number in the opinion.

11.265. A vendor-neutral cite:

(a) does not contain abbreviations of any reporters
(b) uses a year instead of a volume number and places the year immediately after the names of the parties
(c) tells you in what order the opinion was decided that year
(d) does not tell you the page number on which the opinion begins
(e) gives the pinpoint reference as a paragraph number rather than as a page number

11.266. When the constitutional provision you are citing is not currently in force.

11.267. False. The date you use is the date of the edition of the code you are using, or, if you are citing a statute in a supplement, you use the date of the supplement.


11.270. You are required to cite a federal statute in Stat. in the unlikely event that the language of the statute in Stat. differs from the language of the statute in the code (U.S.C.).

11.271. Enacted into positive law means that Congress has gone though the statutes in a particular title in U.S.C. and has declared them to be valid and accurate.

11.272. Pub. L.

11.273.

(b) Check Table 2 in U.S.C.C.A.N.


11.276. Your cite should contain the federal session law cite, the phrase “codified at,” and the cite to the United States Code. You can also give the popular name of the statute.

11.277.
(a) the year that appears on the spine of the volume
(b) the year on the title page
(c) the latest copyright (©) year

11.278. False. Regulations in the Federal Register are cited by page number and those in the C.F.R. are cited by section (§) number.

11.279. Give the Fed. Reg. cite, the phrase (to be codified at ...), and the C.F.R. cite.

11.280. Legislative history consists of the hearings, debates, amendments, committee reports, and all other events that occur in the legislature before a bill is enacted into a statute.

11.281. When citing page numbers in the daily Congressional Record, the page number is preceded by the latter “H” or “S” to indicate whether the item appeared in the House pages or the Senate pages of the volume. This H or S notation is not used when citing page numbers in the bound Congressional Record.

11.282. False. Use the author's full name in both legal periodical articles and books.

11.283. When citing a quotation from a legal periodical article, a pinpoint cite is the reference to a particular page in the article—other than the page on which the article begins. The pinpoint cite goes immediately after the page number on which the article begins, separated by a comma.

11.284. Use section ($) numbers, not page numbers.
11.285.
(a) the name of the author, if given
(b) the title or top-level heading of the material you are citing
(c) the Uniform Resource Locator (URL), which is the Internet address
(d) the date of the site, if available

11.286. Cite checking is examining citations in a document to assess whether the format of the citation is correct, whether a parallel cite is needed, whether quoted material is accurately quoted, and whether the law cited is still valid.

11.287. The different color will make clear to everyone which corrections or other notations are yours.

11.288. A table of authorities (TOA) is a list of primary authority (e.g., cases and statutes) and secondary authority (e.g., legal periodical articles and legal treatises) that a writer has cited in an appellate brief or other document. The list includes page numbers where each authority is cited in the document.

11.289.
(a) Supra refers to something earlier (above) in the document.
(b) Infra refers to something later (below) in the document.

11.290. You check supra, infra, and id. references by going to the places indicated (supra—above; infra—below; id.—immediately preceding) and make sure that those places contain what the supra/infra/id. references say they contain.

11.291. False. You can use the short form citation the second and subsequent times.


11.293. The copyright (©) page of a law book tells you how current it is.
11.294. To use the pocket part of a law book, you check the unit (e.g., section number) in the pocket part that you have been reading in the bound volume to find out if anything new has happened to that unit.

11.295. Since the date of the bound volume, nothing new has happened to § 56(b). The pocket part has nothing to tell to you.

11.296.

(a) state statutory codes
(b) unofficial federal codes (U.S.C.A. or U.S.C.S.)
(c) annotated reporters (e.g., A.L.R.5th)
(d) legal encyclopedias (Am. Jur. 2d and C.J.S.)
(e) state digests
(f) regional digests (e.g., Pacific Digest)
(g) federal digests (e.g., Federal Practice Digest 4th)
(h) legal treatises written for practitioners

11.297.

(a) Shepard's
(b) American Digest System
(c) looseleaf services
(d) West Group reporters

(e) session laws
(f) legal periodicals
(g) legal newspapers
(h) legal newsletters

11.298.

(a) Shepard's: by advance sheets and supplemental pamphlets
(b) American Digest System: by adding General Digest volumes
(c) looseleaf services: by inserting pages with new materials and removing pages with outdated material
(d) West Group reporters: by adding new volumes
(e) session laws: by adding new volumes
(f) legal periodicals: by adding new issues
(g) legal newspapers: by adding new issues
(h) legal newsletters: by adding new issues

11.299. An errata page is a list of corrections to a transcript or document.

11.300. Term of art is a word or phrase that has a special or technical meaning.

11.301. The CARTWHEEL is designed to help you use the index and the table of contents of law books.

11.302.

(a) broader words
(b) narrower words
(c) synonyms
(d) antonyms
(e) closely related words

(f) related terms of procedure and remedy
(g) courts and agencies
(h) long shots

11.303.

(a) broader words: harm, injury, etc.
(b) narrower words: puncture, stab, etc.
(c) synonyms: hurt, break, etc.
(d) antonyms: heal, repair, favor, etc.
(e) closely related words: cut, pain, trauma, etc.
(f) related terms of procedure and remedy: damages, suit, action, arrest, etc.
(g) courts and agencies: superior court, police, health department, etc.
(h) long shots: insult, ulcer, offend, etc.
11.304. You think of words and phrases that fall within the following five descriptive categories:
(a) parties  
(b) places or things  
(c) basis of action or issue  
(d) defenses  
(e) relief sought

11.305. You think of words and phrases that fall within the following four categories:
(a) things  
(b) acts  
(c) persons  
(d) places

11.306.
(a) background research: provides you with a general understanding of the area of the law involved in your research problem
(b) specific fact research: provides you with primary and secondary authority that covers the specific facts of your research problem
(c) validation research: provides you with information on the current validity of the primary authority you intend to use

11.307. define: interrogatories

11.308. You need to do background research when the area of the law involved in your research problem is new to you.

11.309.
(a) legal dictionaries  
(b) legal encyclopedias  
(c) legal treatises  
(d) annotations  
(e) legal periodical literature  
(f) agency reports/brochures  
(g) committee reports  
(h) reports/studies of special interest groups  
(i) Internet
11.310. The main objective of legal research is to locate mandatory primary authority.

11.311.

(a) the federal government: U.S. Constitution, statutes of Congress, federal court opinions, federal administrative regulations, federal administrative decisions, federal rules of court, executive orders of the president, treaties

(b) a state government: state constitution, state statutes, state court opinions, state administrative regulations, state administrative decisions, state rules of court, executive orders of the governor

(c) a local government: charter, local ordinances, local court opinions, local administrative regulations, local administrative decisions, local rules of court, executive orders of the mayor


11.313. Many law books have KF call numbers.

11.314.

(a) civil procedure law: KF 8810

(b) corporate law: KF 1384

(c) paralegals: KF 320L

(d) trials: KF 8910

11.315. The case summaries in West Group digests are organized under the key number system.

11.316. Key numbers in West Group digests come from headnotes printed at the beginning of opinions in West Group reporters.

11.317.

(a) at the beginning of the opinion—Smith v. Smith—in F. Supp. 2d

(b) at the beginning of the F. Supp 2d advance sheet containing Smith v. Smith

(c) at the end of the bound F. Supp. 2d volume containing Smith v. Smith

(d) in the American Digest System (first in the General Digest and then in the Decennial Digest—in one of the two parts of this Decennial)

(e) in the Federal Practice Digest 4th
(f) in a state digest if Smith v. Smith dealt with a particular state

(g) in Westlaw

11.318. Every key number in a West Group digest has a corresponding k number that will enable you to find the same cases digested in Westlaw.

11.319.

(a) Check the key number in the General Digest volumes.

(b) Check the key number in the Decennial Digest (in both parts for recent Decennials).

(c) Check the equivalent section number in the Century Digest.

11.320. the Descriptive Word Index (DWI)

11.321.

(a) allows you to find a case when you know only the defendant's name

(b) allows you to find cases where the same defendant has been sued

11.322. False. It is possible that you will be given a key number that has no cases digested under it at the present time. You may be told to go to the table of contents (scope note) for this topic and try to find a more productive key number.

11.323.

(a) Use the DWI (Descriptive Word Index).

(b) Use the Table of Contents for one of the main 400 + topics.

(c) Check the key numbers in headnotes of cases you have already found.

(d) Check the Table of Cases in digests for the cases you have already found.

(e) Check the library references in a West Group statutory code.

(f) Check the leads in the legal encyclopedias, C.J.S. and Am. Jur. 2d.

(g) Check the leads in A.L.R. annotations.

(h) Check Westlaw.
11.324. False. Key numbers were invented by West Group after the Century Digest was published. If you have a key number that you want to check in the Century Digest, you need to translate it into an equivalent Century Digest section number.

11.325. The value of the Table of Key Numbers in General Digests is that you can find out which General Digest volumes have cases digested under the key number you are checking so that you don’t have to check every General Digest volume.

11.326.
(a) A.L.R. (A.L.R.1st)  (e) A.L.R.5th
(b) A.L.R.2d  (f) A.L.R.6th
(c) A.L.R.3d  (g) A.L.R. Fed.
(d) A.L.R.4th  (h) A.L.R. Fed. 2d

11.327. The eight sets of annotations and West Group digests both function as massive indexes to case law—they are both extensive case finders.

11.328. On point means raising or covering the same issue as the one before you. Relevant to the issues of a research problem.

11.329.
(a) ALR First Series Quick Index
(b) ALR Digest
(c) Westlaw

11.330.
(a) ALR Index
(b) Westlaw
(c) ALR Digest
11.331.
(a) ALR Index
(b) ALR Quick Index 3d, 4th, 5th, 6th
(c) Westlaw
(d) ALR Digest

11.332.
(a) ALR Index
(b) ALR Federal Quick Index
(c) Westlaw
(d) ALR Digest

11.333. When annotations discuss or mention whatever you are shepardizing, the annotations are citing materials.

11.334. They are tables printed at the beginning of annotations in the eight sets of A.L.R. that will tell you where the law of particular jurisdictions are treated in the annotation.

11.335.
(a) A.L.R. Blue Book of Supplemental Decisions
(b) Annotation History Table in the last volume of ALR Index

11.336.
(a) A.L.R.2d Later Case Service
(b) Annotation History Table in the last volume of ALR Index

11.337.
(a) pocket part of the volume containing the annotation
(b) Annotation History Table in the last volume of ALR Index
11.338.

(a) superseded annotation: an outdated annotation that should no longer be read

(b) supplemental annotation: an annotation that updates but that does not replace an earlier annotation

11.339. Check the Annotation History Table in the last volume of ALR Index. Also check the standard methods of updating annotations (see questions 11.335 to 11.337)

11.340. Shepardize means to use Shepard's citations (in book form, on CD-ROM, or online) to obtain validation and other data on whatever you are shepardizing.

11.341. Shepard's is a citator in that it is a list of citation that can help you assess the current validity of an item and can give you leads to additional relevant materials.

11.342.

(a) hardcover red volumes

(b) white, gold, blue, gray, yellow, or red pamphlet supplements

11.343. The supplements are cumulative in the sense that when new pamphlets come out, they consolidate the material in prior pamphlets so that the latter can be thrown away.

11.344.

(a) paper (pamphlets and bound volumes)

(b) CD-ROM

(c) online through LexisNexis

11.345. On the most recent pamphlet find the list called “WHAT YOUR LIBRARY SHOULD CONTAIN.” Make sure everything on the list is on the shelf.

11.346.

(a) cited material: the case, statute, regulation, or other document you are shepardizing

(b) citing material: the case, article, or annotation that mentions, treats, or discusses whatever you are shepardizing, i.e., that mentions, treats, or discusses the cited material.
11.347.
(a) the citing material: 43 F.2d 632
(b) the cited material: 45 Mass. 890

11.348.
(a) the citing material: 79 HLR 1127
(b) the cited material: § 100

11.349.
(a) in the abbreviation tables at the beginning of most units of Shepard's
(b) in the preface or explanation pages found at the beginning of most units of Shepard's

11.350.
(a) The asterisk symbol (*) means that the year that follows the citing case is the year of the cited statute or administrative regulation, not the year of the citing case.
(b) The delta symbol (Δ) means that the year that follows the citing case is the year of the citing case; it is not the year of the cited statute or administrative regulation.

11.351.
(a) the parallel cite of the case
(b) the history of the case (e.g., appeals in the same litigation)
(c) the treatment of the case (e.g., other cases that have criticized the case)
(d) citing legal periodical literature
(f) citing opinions of the attorney general

11.352. A docket number is the consecutive number assigned to a case by the court when the case is filed by the party bringing the litigation (the number is used on all documents filed with the court during the litigation of the case). Shepard's gives you the docket number if the case is so recent that its traditional citation is not yet available.
11.353.
(a) s) same litigation
(b) r) reversed on appeal
(c) v) vacated or withdrawn
(d) f) followed or agreed with
(e) q) questioned
(f) c) criticized
(g) e) explained

11.354. Shepard's can be used as a case finder through the citing cases. Every citing case covers the same area of law as the cited case. Hence Shepard's leads you to new cases through the citing cases.

11.355. You may be able to shepardize the same case through more than one set of Shepard's because Shepard's has separate sets of citators for all the major reporters. A case with a parallel cite is printed in more than one reporter, each of which may have its own set of Shepard's.

11.356.
(a) You are in the wrong set of Shepard's.
(b) The unit you are examining does not cover the volume number of the case you want to shepardize.
(c) Shepard's has nothing new to report to you since the date of the last issued unit for that set of Shepard's.

11.357. False. The page number is the page on which the citing case mentions the cited case.

11.358.
(a) the session law citation of the statute (its parallel cite)
(b) the history of the statute in the legislature (amendments or repeals of the statute, etc.)
(c) citing cases that have analyzed or mentioned the statute
(d) citing administrative decisions
(e) citing legal periodical literature


(g) citing opinions of the attorney general

11.359.

(a) public laws: statutes that apply to the general public or to a segment of the public and have permanence or general interest

(b) private laws: statutes that apply to specifically named individuals or groups and have little or no permanence or general interest

11.360.

(a) slip law: a single statute (public or private law) that is printed separately, often in a small pamphlet

(b) session law: a single statute (public or private law) that is printed in chronological order with every other statute passed during a particular session of the legislature

(c) code: a collection of statutes (public laws only) that are printed by subject matter regardless of when the legislature passed them

11.361. False. Only public laws are published in a code.

11.362. To shepardize a statute you need its latest codified cite. If, however, the session law will never be codified because it is a private law of no general public interest or if it has not yet been codified, you shepardize the statute through its session law cite.

11.363. A1988C69. This notation means that there was an amendment (A) to § 4559 in chapter 69 (C69) of the 1988 session laws of Delaware.

11.364. 966FS12*1996. This citing case means that the opinion at 966 F. Supp. 12 mentioned § 32(b). The reference of the court was to the 1996 edition of the U.S.C. (The F. Supp. opinion was not decided in 1996.)

11.366. The term *et seq* means “and following” (the citing material may be analyzing more than one statutory section).

11.367.

(a) the history of the regulation in the courts  
(b) citing legal periodical literature  

11.368. False. Shepard's will not give you the history of the cited regulation in the agency; it will give you only its history in the courts.

11.369.

(a) an asterisk (*) in C.F.R. means that the year that follows the citing case is the year of the cited regulation; it is not the year of the citing case  
(b) a delta symbol (Δ) means that the year that follows the citing case is the year of the citing case; it is not the year of the cited regulation

11.370. False. The asterisk means the citing material did refer to the year of the cited regulation. (The delta symbol, however, would have meant the date is the year of the citing material.)

11.371. To find out what federal statute is the authority (the enabling statute) for a regulation in C.F.R., you check the “authority” reference under many of the regulations in C.F.R.

11.372. KeyCite

11.373.

(a) interfiled looseleaf service  
(b) newsletter-type looseleaf service
11.374.
(a) recent court opinions or summaries of opinions
(b) relevant legislation
(c) administrative regulations and administrative decisions (or summaries)
(d) references to relevant studies and reports
(e) practice tips

11.375.
(a) lead articles and comments
(b) case notes
(c) book reviews

11.376.
(a) Index to Legal Periodicals and Books (ILP)
(b) Current Law Index (CLI)

11.377.
(a) The table of cases in ILP/CLI will tell you which court opinions have been the subject of case notes in the legal periodicals.
(b) The table of statutes in ILP/CLI will tell you which statutes have been the subject of comments in the legal periodicals.

11.378. LegalTrac is the online version of CLI.

11.379. MEDLINE is an index of biomedical journals

11.380.
(a) Corpus Juris Secundum
(b) American Jurisprudence 2d
11.381. black letter law

11.382. Table of Laws and Rules


11.384. A legal treatise is a book written by a private individual (or by a public individual writing as a private citizen) that provides an overview, summary, or commentary on a legal topic.

11.385.

(a) pocket parts
(b) supplemental volumes
(c) page inserts (for looseleaf treatises)

11.386.

(a) Check the author's name in ILP.
(b) Check the author's name in CLI.

11.387.

(a) online librarians         (d) online groups and listservs
(b) administrative agencies   (e) authors
(c) federal and state legislators    (f) associations

11.388.

(a) Shepardize the case you have.
(b) Shepardize cases that are cited by the case you have.
(c) Do a KeyCite check on the case in Westlaw.
(d) Use the West Group digests.
(e) Find an annotation.
(f) Find a discussion of the case in legal periodicals.
(g) Check Words and Phrases, the legal dictionary.
(h) Try a search engine.

11.389.
(a) Shepardize the statute you have.
(b) Do a KeyCite check on the case in Westlaw.
(c) Check Notes of Decisions in the statutory code.
(d) Find an annotation on the statute.
(e) Find legal periodical literature on the statute.
(f) Check looseleaf services on the statute.
(g) Check legal treatises on the statute.
(h) Shepardize (or Keycite) any cases found through the techniques listed above.

11.390.
(a) Table of Laws, Rules, and Regulations
(b) Table of Statutes (found in ILP and in CLI)

11.391.
(a) A historical note provides some of the legislative history of the statute.
(b) Notes of decisions summarize opinions that have interpreted or applied the statute.

11.392. False. The statutes in annotated codes are arranged by subject matter.

11.393. Session laws are the uncodified statutes of the legislature printed chronologically rather than by subject matter. Sometimes called statutes at large. Uncodified means not printed in a code. If the session law is a public law, it will eventually be printed in a code.
11.394. Interpretation. The verb is construe.

11.395. Ejusdem generis is a statute of construction that says: Where general words follow a list of particular words, the general words will be interpreted as applying only to things of the same class or category as the particular words in the list.

11.396.

(a) What is the citation of the statute?
(b) What are the elements of the statute?
(c) To whom is the statute addressed?
(d) What condition(s) make the statute operative?
(e) Is the statute mandatory or discretionary?
(f) What is the internal statutory context of the statute?
(g) What is the effective date of the statute?
(h) Has the statute been amended in the past?
(i) Has the statute been declared valid or invalid by the courts?
(j) Do administrative regulations exist that interpret and carry out the statute?

11.397. A statute is mandatory if it requires something to be done; it is discretionary if it permits something to be done but does not require or mandate it.

11.398. If you know the popular name of a statute, you can find it through the popular name table in the code.

11.399.

(b) Table 2 in U.S.C.A.N.

11.400. Example: thomas.loc.gov
11.401.

(a) Check the statute in the pocket part of the volume where you found the statute.

(b) Check the statute in supplement pamphlets that go with the statute.

(c) Shepardize the statute.

(d) KeyCite the statute on Westlaw.

11.402.

(a) Check the Notes of Decisions following the statute.

(b) Shepardize the statute.

(c) KeyCite the statute on Westlaw.

11.403. An enabling statute is statute that allows (enables) an administrative agency to carry out specified delegated powers.

11.404. You can find the enabling statute of a federal administrative agency by checking the “Authority” reference beneath the regulation (or cluster of regulations) in the C.F.R.

11.405. Check the Table of Statutes in ILP and CLI.

11.406.

(a) to determine whether the specific facts currently in controversy were ever discussed by the legislature while it was considering the statute

(b) to identify the legislature's broad or narrow purpose in enacting the statute to assess whether it sheds any light on the facts currently in controversy

11.407. A legislative service provides bill numbers of statutes, proposed amendments, names of committees that considered the statute, etc.
11.408.

(a) Check the historical data beneath the statute in the statutory code.

(b) Check the codification information in the early part of the statutory code and of the Shepard's for that statute.

(c) Check the legislative service.

(d) Check the Internet site of the state legislature.

(e) Check with the committees of the legislature that considered the bill.

(f) Check the law revision commission.

(g) Check the state law library.

(h) Check the law library and drafting office of the state legislature.

(i) Check cases discussing the legislative history of the statute.

(j) Check discussions of legislative history in legal periodical literature, annotations, legal treatises, looseleaf services, etc.

(k) Check the State Legislative Sourcebook.

11.409. PL means Public Law.

11.410. A compiled legislative history collects (compiles) the documents of a statute's legislative history in one place.

11.411. Table 4 in U.S.C.C.A.N. gives you leads to the legislative history of a federal statute.

11.412.

(a) Legislative Branch Resources on GPO Access

(b) Thomas

(c) Union List of Legislative Histories

(d) Congressional Record

(e) Table 4 in U.S.C.C.A.N.

(f) Monthly Catalog of U.S. Government Publications
A lobbyist is someone whose sole function is to monitor and try to influence the content of proposed legislation.

Monitoring proposed legislation means to determine its current status in the legislature and to keep track of all the forces that are trying to enact, defeat, or modify the bill.

(a) Find out what committees are acting on the bill.
(b) Ask for copies of the bill.
(c) Ask for copies of Committee reports.
(d) Find out about hearings on the bill and the availability of transcripts.
(e) Find out the names of people in the legislature working on the bill.
(f) Contact the bar association.
(g) Contact administrative agencies.
(h) Find out who else is lobbying on the bill.
(i) Identify the court opinion or other event that precipitated consideration of the bill.
(j) Find out if other legislatures have relevant material.
(k) Check the Internet site for the legislature.
(l) Check online bill-tracking services.
11.416. The constitution is the fundamental law that creates the branches of government, allocates power among
them, and defines some basic rights of individuals.

11.417. The full text of a constitution is usually found at the beginning of the statutory code for the jurisdiction.

11.418. United States Supreme Court Digest (West Group).

11.419. The Administrative Procedure Act is a statute that governs the steps that an agency must take in order
to write a regulation or issue an administrative decision. It governs procedures before administrative agencies.

11.420. Check the “Authority” reference beneath the regulation (or cluster of regulations) in C.F.R.

11.421. Check the Parallel Table of Authorities and Rules in the pamphlet called CFR Index and Finding Aids.

11.422.

(a) CFR Index and Finding Aids
(b) Index to the Code of Federal Regulations
(c) looseleaf services
(d) indexes within the Federal Register
(e) fee-based online services such as Westlaw and LexisNexis
(f) free Internet sources

11.423.

(a) Check the pamphlet, LSA: List of Sections Affected.
(b) Check the table, CFR Parts Affected table, in the daily Federal Register (and on the Internet).
(c) Check e-CFR online.
11.424.
(a) Shepardize the regulation (annotations are citing materials).
(b) Check the Table of Laws, Rules, and Regulations.

11.425. Such a list exists in The Bluebook: A Uniform System of Citation and in the ALWD Citation Manual.

11.426.
www.spl.org/default.asp?pageID=collection_municodes
www.findlaw.com/11stategov/municipal.html
municipalcodes.lexisnexis.com
www.sterlingcodifiers.com/online.htm
www.municode.com

11.427.
(a) Wright and Miller, Federal Practice and Procedure
(b) Moore’s Federal Practice

11.428.
(a) treaty: a formal agreement between two or more foreign governments that requires the approval of the Senate
(b) executive agreement: a formal agreement between two or more foreign governments that does not require the approval of the Senate

11.429.
(a) Westlaw: USTREATIES
(b) LexisNexis: ITRLAW
11.430. Validation research is designed to ensure that everything you want to use from your research is good law.

11.431. It is relatively easy to rely on invalid case law because invalid cases (e.g., those reversed on appeal) remain on the books—in the reporter volumes. They still “look” valid.

11.432. It is relatively easy to rely on invalid statutory law because invalid statutes (e.g., those repealed or declared unconstitutional) remain on the books—in the bound statutory code volumes. They still “look” valid. It may take years for them to be revised or replaced in the volumes.

11.433.
(a) Read the full text of all primary authority on which you rely to make sure the interpretation is proper.
(b) Shepardize and/or KeyCite the statutes, cases, regulations, etc. to make sure the law is still valid.
(c) Read the secondary authority on which you rely to make sure the interpretation is proper.
(d) Look for other applicable primary authority you may have failed to mention.
(e) Look for other applicable secondary authority you may have failed to mention.

11.434.
(a) Have you found everything you should have found?
(b) Is everything you found still good law?
(c) Have you properly interpreted what you found?

11.435.
(I) What I Have Checked: Legal Materials
(II) What I Have Checked: Nonlegal Materials
(III) What I Intend to Rely On in My Research Memo
(IV) Research Log
(V) People Consulted for Guidance/Leads Before Completion
11.436.

(a) Instructions from your supervisor. Your supervisor may have set limits on how much time to spend on the assignment.

(b) Repetition. As you try different research strategies, are they often leading you to the same primary and secondary authority?

(c) Comprehensive via checklists. The checklists are designed to ensure that you have covered everything.
Answers to Review Questions on Chapter 12

Legal Writing

(The Review Questions for Chapter 12 are within this study guide.)

12.1.

(a) Obtain the basic parameters (instructions) of the writing assignment (kind of writing, audience, due date, etc.).

(b) Find out if the office has its own style manual that you are expected to follow.

(c) Find copies of documents on other cases that you may be able to use as a model or guide for the document you are asked to prepare.

(d) Find out if the office uses any commercial texts as guides for commonly prepared documents.

(e) Adapt any models you find to the specific facts and instructions of the writing assignment you are given.

(f) Seek feedback before submitting the final draft.

(g) Carefully proofread to make sure there are no grammar and spelling errors in your final draft.

12.2. An instrument is a formal document that gives expression to or embodies a legal act or agreement.

12.3. Examples of instruments: contract, deed, will, lease

12.4. Pleadings are formal litigation documents filed by parties that state or respond to claims or defenses of other parties.

12.5. The major pleadings are the complaint and the answer to the complaint.

12.6.

(a) cover letter: a letter that tells the recipient what physical items are being sent in the envelope or package

(b) demand letter: an advocacy letter that asks the recipient to take specific action or to refrain from specific action affecting the client

(c) status letter: a letter telling a client what has happened in the case thus far and what next steps are expected

(d) informational letter: a letter that provides or that seeks information
(e) confirmatory letter: a letter that verifies or confirms that something important has been done or said

(f) opinion letter: a letter to a client explaining the application of the law and providing legal advice based on that explanation

12.7. Bcc means blind carbon copy. It is used to indicate that a copy of the letter has been sent to a designated person, but the recipient of the letter is not told this. Only the office copy of the letter has the bcc notation.

12.8. RE means in the matter of or concerning. The RE line is the reference line that states the case to which the letter pertains and occasionally the major theme of the letter.

12.9. Four possible components of the body of a letter:

(a) identification line: the first line of the letter that lets the reader know who is sending the letter, unless this is already obvious to the recipient because of prior contact

(b) purpose line: a brief statement telling the reader the main purpose of the letter

(c) request line: a specific request if the letter is asking the recipient to do something

(d) elaboration: as needed, an explanation of why you are writing the letter

12.10.

(a) An external memorandum is addressed to someone outside the office. This memo emphasizes the strengths of the client's case and the weaknesses of the other side. It is an advocacy document.

(b) An office or interoffice memorandum is addressed to the office only. It objectively gives the strengths and weaknesses of both sides.

12.11. Three other names for an external memorandum of law:

(a) points and authorities memorandum

(b) trial memorandum

(c) hearing memorandum

12.12. Eight parts or sections of many office memos:

(a) heading

(b) introduction
(c) issues and summary conclusions
(d) facts
(e) discussion or analysis
(f) conclusion
(g) recommendations
(h) appendix

12.13. The parts or sections in the heading of an office memo are as follows:
(a) caption centered at the top of the page stating the kind of document it is
(b) the name of person to whom the memo is addressed
(c) the author of the memo
(d) the date the memo was completed and submitted
(e) the name of the case (client's name and the opponent's name, if any)
(f) the office file number
(g) the docket number, if any
(h) a brief subject matter entry (RE:)

12.14. The roadmap paragraph is an overview or thesis paragraph.

12.15. The two critical parts of a legal issue are:
(a) a brief quote from the element of the law in contention
(b) several of the important facts relevant to that contention

12.16. The statement of facts should be:
(a) concise
(b) accurate
(c) well-organized
12.17. The following four categories of facts should be contained in the statement of facts in an office memo:

(a) all legally relevant facts
(b) unknown facts
(c) favorable and unfavorable facts
(d) procedural facts

12.18. STOP is a writing technique alerting you to the need for a counteranalysis: after writing a Sentence, Think carefully about whether the Other side would take a Position that is different from the one you took in the sentence.

12.19. The discussion section of the memo uses the A (application) part of IRAC.

12.20.

(a) brief of a case: a summary of the major components of a court opinion
(b) trial brief: an attorney’s set of notes on the strategy he or she proposes to follow in conducting a trial
(c) appellate brief: a document in which a party gives reasons why an appellate court should affirm (approve), reverse, or otherwise modify what a lower court has done
(d) brief bank: a collection of appellate briefs and related documents drafted in prior cases that might be used as models and adapted for current cases

12.21. Here is the order in which the documents are often prepared:

(iii) appellate brief
(ii) appellee brief
(i) reply brief

12.22.

(a) caption: states the names of the parties and the court, the court file or docket number, and the kind of appellate brief it is
(b) statement of jurisdiction: a short statement explaining the subject matter jurisdiction of the appellate court
(c) table of contents: an outline of the major components of the brief organized by point headings, with page references
(d) table of authorities: a list of all the primary and secondary authority relied on in the brief with page references

(e) questions presented: a statement of the legal issue(s) the party wants the appellate court to consider and decide

(f) statement of the case: a summary of the procedural history of the dispute and the essential facts of the case; also sometimes the basis of the appellate court's subject matter jurisdiction

(g) summary of argument: a summary of the major points to be made in the brief

(h) argument: an explanation of the legal positions of the client presented in the order of the point headings in the table of contents; primary and secondary authority are analyzed

(i) conclusion: a statement of the action the attorney is asking the appellate court to take

(j) appendix: excerpts from statutes or other primary authority; excerpts from the trial transcript; charts; descriptions of exhibits entered into evidence in the trial, etc.

12.23. A point heading is a statement of the party's conclusion it wants the court to adopt on an issue.

12.24. A truncated passive is a form of passive voice in which the doer or subject of the action is not mentioned.

12.25.

(a) by means of...................by (or with)

(b) forthwith.....................immediately

(c) subsequent to................after

(d) give consideration to........consider

(e) draftsman.....................drafter or writer
Answers to Review Questions on Chapter 13

An Introduction to the Use of Computers in a Law Office

(The Review Questions for Chapter 13 are within this study guide.)

13.1.

(a) Take computer courses, especially free, short-term ones available in your community.
(b) Find out about and attend computer events at local paralegal associations.
(c) Find out about and attend computer events at local bar associations.
(d) On the Internet, spend a little time each day perusing the site of different law firms.
(e) On the Internet, spend a little time each week examining different search engines.
(f) On the Internet, spend a little time each week taking an online tutorial.
(g) Exchange tutorials with fellow classmates.
(h) Every week spend some time reading about one major computer topic.
(i) Brush up on your tying skills through an online typing tutorial.

13.2.

(a) hardware: the physical equipment of a computer system
(b) software: a computer program that tells or instructs the hardware what to do

13.3.

(a) Operating or systems software tells the computer how to operate; it is the master or central software program that the hardware and all other software depend on to function.
(b) Applications software performs specific tasks for the consumer or end user.

13.4.

(a) keyboard
(b) speech recognition program
(c) scanner (imaging)
13.5.
(a) Random-access memory (RAM) is memory that stores temporary data that is erased (unless properly saved) whenever the computer's power is shut off.
(b) Read-only memory (ROM) is memory that stores data that cannot be altered, removed, or added to (it can only be read) and, therefore, is not erased when you shut off the computer.

13.6. PDF (portable document format) is a file format consisting of an electronic image of a document that preserves the features or elements of the document (e.g., its line spacing, photographs, font size) that existed before it was converted into a digital document.

13.7. Open-source software has source code that is available to the public for use and modification.

13.8. False. One Gb is approximately one billion bytes of data.

13.9.
(a) read/write: able to read data on a device and write or insert additional data onto it
(b) read-only: able to read data on a device but not alter, remove, or add to the data

13.10. Storage devices:
(a) hard disk
(b) floppy disk
(c) USB flash drive
(d) magnetic tape system
(e) CD-ROM drive
(f) CD-R drive
(g) CD-RW drive
(h) DVD-ROM drive

13.11. A USB flash drive is a portable memory drive that is inserted into and taken out of the computer's USB port. Also called a jump drive, pen drive, key drive, USB key, and USB stick. (USB means Universal serial bus, which allows fast connections between a computer and external devices such as flash drives and cameras.)
13.12.  
(a) Ink-jet printers use a spray of ionized ink.  
(b) Laser printers use a laser beam.

13.13.  
(a) Points refer to the size of printed letters of the alphabet, punctuation marks, or other characters.  
(b) Fonts refers to the design or style of printed letters of the alphabet, punctuation marks, or other characters.

13.14. A modem is a communications device that allows computers at different locations to use telephone lines to exchange data.

13.15. Real-time means occurring now; happening as you are watching; able to respond immediately.

13.16. PDA (personal digital assistant) is a handheld multifunction digital organizer. It can send and receive e-mail, store address and contact information, display calendars, and act as a cell phone.

13.17.  
(a) LAN (local area network) is a multiuser system of linking computers that are in close proximity to each other so that they can share data and resources.  
(b) WAN (wide area network) is a multiuser system of linking computers over a large geographical area so that they can share data and resources.

13.18.  
(a) groupware: software that allows computers on a network to work together; collaboration software  
(b) shareware: a program that users receive without cost and are expected to purchase if they want to keep it after trying it out.

13.19. Integrated software contains more than one application (e.g., word processing, spreadsheet calculations, and database management) in a single program.

13.20. Patches are used by a software company to update the software by making corrections and adding new features.
13.21. A computer that is not connected to a network is called a stand-alone computer.

13.22. 
(a) word processing: enters and edits data in documents, e.g., letters, briefs, and memos 
(b) spreadsheet: performs calculations on numbers and values entered by the user; organizes, compiles, tracks, and calculates numerical data
(c) database management: organizes, searches, retrieves, and sorts information or data, e.g., conflict of interest records, client lists
(d) presentation graphics: enhances the communication of data through the use of charts, graphs, video, clip art, and sound
(e) litigation support: stores, retrieves, and tracks documents, testimony, and other litigation materials
(f) document control and case management: helps maintains control over schedules, e.g., appointments and case deadlines

13.23. When text is right justified, every line of a paragraph on the right margin is aligned (except for the last line if it ends before the margin).

13.24. 
(a) block move: copy, delete, or change the position of text you highlight 
(b) footer: the same text that is printed at the bottom of each page 
(c) justification: every line is even (i.e., is aligned) at one or both margins 
(d) paginate: to insert consecutive page numbers at the top or bottom of every page in the text 
(e) word wrap: when a word would extend beyond then right margin, the word is automatically sent to the beginning of the next line

13.25. False. Every line on the right margin is aligned, not ragged.

13.26. A macro is an automated way to insert frequently used text or to perform other repetitive functions.

13.27. Table of Authorities
13.28. Metadata is data about a computer document that is hidden within the document itself, e.g., earlier versions of the document. This data can be sent to recipients of the document even though it could contain confidential information that should not be disclosed.

13.29. spreadsheet

13.30. Microsoft’s Access, Lotus/IBM’s Approach, Corel’s Paradox

13.31. Microsoft’s PowerPoint, Corel’s Presentations

13.32. A full-text search is a search of every word in every document in a database.

13.33. Computerized ticklers are often part of case management (document control, PIM) software.

13.34. Knowledge management (KM) is a system of linking into the knowledge base of a law office embodied in the documents generated by all of the cases it has handled so that it can better meet the needs of current and prospective clients. KM is a productivity tool for capturing and reusing knowledge.

13.35. Many offices store appellate briefs from its case files in brief banks.

13.36. Computer-assisted legal research

13.37. Online: (1) Connected to another computer or computer network, often through the Internet. (2) Residing on a computer and available for use; activated and ready for use on a computer.

13.38. Westlaw and LexisNexis

13.39. Databases and libraries are the main units or parts of Westlaw and LexisNexis. A database in Westlaw is the equivalent of a library in LexisNexis.
13.40.
(a) www.westlaw.com
(b) www.lexis.com

13.41. Examples of primary authority found on Westlaw and LexisNexis:
(a) federal and state constitutions
(b) federal and state statutes
(c) federal and state court opinions
(d) federal, state, and local administrative regulations
(e) federal, state, and local administrative decisions
(f) federal, state, and local rules of court
(g) local charters and municipal codes
(h) federal treaties and executive agreements

13.42. Examples of secondary authority found on Westlaw and LexisNexis:
(a) legal periodical literature
(b) legal treatises
(c) legal newsletters
(d) the status of pending lawsuits in federal, state, and local courts
(e) records of judgments in bankruptcy courts, federal district courts, other federal courts, state courts, county courts, and other local courts
(f) statistics on jury awards for specific kinds of injuries
(g) mechanic's lien filings
(h) UCC (Uniform Commercial Code) filings
(i) business and personal addresses
(j) names of key personnel in particular companies (e.g., officers, members of the board of directors)
(k) major properties (e.g., land, stock, commercial equipment) owned by particular individuals and businesses
(l) financial status of companies based on sales data, stock market prices, and property holdings
(m) financial details and status of proposed mergers and acquisitions

(n) chain of title records on specific property

(o) medical research (e.g., side effects of particular drugs)

(p) news stories on particular topics, companies, or individuals in newspapers and other media throughout the world

(q) birth and death records

(r) social science studies

13.43. A question you pose to a computer database is called a query.

13.44. Two methods of phrasing search queries on Westlaw and LexisNexis:

(a) natural language

(b) terms and connectors

13.45. In Westlaw and LexisNexis:

(a) An asterisk (*) stands for one character within a term you are searching in Westlaw and LexisNexis.

(b) An exclamation mark (!) that stands for one or more characters added to the root of a term you are searching in Westlaw and LexisNexis.

13.46. In Westlaw queries:

(a) OR means treat the words connected by OR as alternatives; find documents that contain either words.

(b) AND (&) means find documents that contain every word joined by AND or &.

(c) /s means the search words must appear in the same sentence; find documents that contain the search words in the same sentence.

(d) /p means the search words must appear in the same paragraph; find documents that contain the search words in the same paragraph.

(e) BUT NOT (%) means find documents that exclude what follows BUT NOT (%).

(f) /n means the search words should appear within “n” words of each other; find documents that contain the search words within “n” (e.g., 3) words of each other.
13.47. In LexisNexis queries:

(a) OR means treat words connected by OR as alternatives; find documents that contain either of the search words.

(b) AND means find documents that contain every word joined by AND.

(c) /s (w/s) means the search words must appear in the same sentence; find documents that contain the search words in the same sentence.

(d) /p (w/p) means the search words must appear in the same paragraph; find documents that contain the search words in the same paragraph.

(e) AND NOT means find documents that exclude the words following AND NOT.

(f) w/n means the search words should appear within “n” words of each other; find documents that contain the search words within “w/n” words (e.g., 3) of each other.

13.48. A major connector that can be used in limiting a search that is turning up too many cases Westlaw and LexisNexis:

(a) in Westlaw: the BUT NOT (%) connector

(b) in LexisNexis: the AND NOT connector

13.49. A space in Westlaw and an OR in LexisNexis mean the same thing:

(a) A space in Westlaw means treat the words between the space as alternatives.

(b) An OR in LexisNexis means treat the words between OR as alternatives.

13.50. Performing phrase searches:

(a) in Westlaw: Place quotation marks around the phrase.

(b) in LexisNexis: Leave a space between the words of the phrase.

13.51. Field searches in Westlaw:

(a) title (ti)

(b) attorney (at)

(c) synopsis (sy)

(d) author (au)
13.52. Segment searches in LexisNexis:
(a) name
(b) counsel
(c) syllabus
(d) written by

13.53. Online citators:
(a) in Westlaw: KeyCite
(b) in LexisNexis: Shepard's

13.54. The Internet is a worldwide electronic network of networks on which millions of computer users can share information.

13.55. Hypertext allows you to display and link information found in different locations on the same site or on different sites of the World Wide Web.

13.56. Domain names:
(a) .com (commercial entity)
(b) .edu (educational institution)
(c) .gov (government office)
(d) .mil (military institution)
(e) .org (organization, often nonprofit)
(f) .net (network provider)
Also: .info, .biz, .travel

13.57. A search is case sensitive if capital letters are treated differently from lowercase letters.
13.58.

(a) search engine: You search by key words on any subject (the search engine will find sites that contain terms you enter on any subject).

(b) directory: You search by subject area and then by keywords (a directory is a search tool in which you select from a list of broad subject categories and then enter the terms you want contained in sites that are part of the subject category you select).

13.59. Internet search techniques:

(a) Be ready to try more than one search engine.

(b) Use the help features of the search engine.

(c) Learn how to search for phrases and plurals on what you are using. Also learn how its AND, OR, BUT NOT or AND NOT correctors work and whether it has universal characters and wildcards.

(d) Be specific in your use of search terms.

(e) Use synonyms in your search.

(f) Refine your search terms as you continue to search.

(g) If you have more than one search term, type the most important terms first.

(h) Type your search terms in lower case except for connectors such as AND and OR.

(i) Search the invisible Web to try to find material that are not picked up by regular search engines or directories.

(j) Use the find command (e.g., ctrl-F) to try to find your search terms within the pages of the site.

13.60. A metasearch is a search for terms in more than one search engine simultaneously.

13.61. A listserv is a program that manages computer mailing lists automatically.

13.62. An e-mail is a message sent electronically.

13.63. A virus is a program that can reproduce itself and damage or destroy data on computers.

13.64. A firewall is security hardware or software that limits access to your computer when you are on a network by attempting to filter out viruses and other unauthorized or potentially dangerous material.
13.65. To prevent unauthorized reading of data, the data is encrypted, meaning that it is converted into a code that renders the data incomprehensible until they are reconverted to a readable format by an authorized recipient.

13.66. Phishing is the fraudulent attempt to obtain personal information by tricking the recipient of an e-mail message into believing that the sender seeking the information is legitimate.

13.67. Identity theft is knowingly using a means of identification of another person with the intent to commit any unlawful activity.

13.68. A podcast is an Internet audio file that the public can download and listen to through a browser or on audio devices such as iPods and MP3 players. Also called an audioblog.

13.69. RSS (really simple syndication) is a method of notifying subscribers of new content (e.g., news stories, product updates) on an Internet site by syndicating (feeding) notice of the new content to subscribers.

13.70. An intranet is a private network of computers within a particular company or organization established so that the computers can share information online, often using features similar to those of the World Wide Web.
Answers to Review Questions on Chapter 14

Introduction to Law Office Administration

(The Review Questions for Chapter 14 are within this study guide.)

14.1. Approximately 70 percent of attorneys practice in private law offices.

14.2. With personal liability, a person's business debts can be paid out of his business and personal assets. With limited liability, a person's business debts are paid out of his or her business assets only.

14.3. Six private sector settings where attorneys practice:
(a) sole proprietorship
(b) office-sharing arrangement
(c) partnership
(d) professional corporation
(e) limited liability entity
(f) corporate law department

14.4. False. One attorney owns the sole proprietorship practice but he or she might hire other attorneys as employees.

14.5. A law clerk is a full- or part-time law office employee who is studying to be an attorney or who has graduated from law school and is waiting to pass the bar examination. (Other meanings of law clerk: one who provides research and writing assistance to a judge and a nonattorney doing independent legal work in Ontario, Canada.)

14.6. False. Attorneys in an office-sharing arrangement have their independent practices.

14.7. Overhead is the operating expenses of a business (e.g., office rent, furniture, insurance, clerical staff) for which clients are not charged a separate fee.
14.8. 

(a) A partner is an owner who (along with partners) make the ultimate decisions on how the firm should be managed.

(b) An associate is an attorney employee who hopes one day to be promoted to partner.

(c) A staff attorney is a full-time attorney employee who has no expectation of becoming a partner.

(d) Of Counsel is an attorney who is semi-retired or who has some other special status in the law firm.

(e) A contract attorney is an attorney hired to work for a relatively short period of time, usually on specific cases or projects.

14.9. An employee hired from another law office is called a lateral hire.

14.10. An equity or capital partner is a full owner-partner in the firm, sharing in losses and profits.

14.11.

(a) second-tier attorney

(b) project attorney

14.12. A PC is a professional corporation, a law firm organized as a corporation. Its owners have limited liability.

14.13. An LLC is a limited liability company. An LLP is a limited liability partnership. These limited liability entities are taxed like a partnership and have the limited liability of a corporation.

14.14. general counsel

14.15. An in-house attorney refers to attorney employees of the legal department of a corporation who handle the latter's day-to-day legal matters.

14.16. Some of the major functions of a law office manager or legal administrator include: planning, forecasting, budgeting, variance analysis, profitability analysis, financial reporting, operations analysis, etc.
14.17. Examples of support staff in a large law office:

(a) legal administrator
(b) paralegal manager
(c) personnel manager
(d) records information manager
(e) employee benefits manager
(f) recruiter
(g) director of marketing
(h) facilities manager
(i) risk manager
(j) office manager
(k) financial manager
(l) credit/collection manager
(m) chief financial officer/comptroller
(n) bookkeeper
(o) analyst
(p) secretary

etc.

14.18. Functions of a paralegal manager:

(a) recruits, hires, and orients new and temporary paralegals
(b) provides continuing legal education to paralegals
(c) assigns projects to paralegals, coordinates work flow, and monitors billable and nonbillable hours
(d) prepares financial and statistical reports for paralegal program
(e) participates in salary reviews and evaluations of paralegals
(f) participates in long-range planning involving paralegals
14.19. Outsourcing is paying an outside company or service to perform tasks usually performed by one's own employees.

14.20. The new file worksheet is a form used by some law firms that is the source document for the creation of all necessary accounting records that are needed when a law firm begins working on a new client case or matter.

14.21. False. Even in flat-fee cases, there are management reasons for keeping accurate time records. One of the ways to determine whether a particular case or client is profitable is to know how much time was needed to complete the work involved. Accurate time records are valuable management tools even in corporations where the corporate law office is financed out of the corporate treasury rather than out of fees. Decisions on whether to hire additional staff or to layoff present staff depend, in part, on knowing how much time is needed to complete certain tasks and who is and is not meeting those expectations.

14.22. On the Daily Time Sheet, time is normally recorded in tenths of an hour. (A few firms use one-fourth of an hour.)

14.23. Examples of nonbillable tasks: general file maintenance, learning to operate a new office program, helping develop standard forms, taking a lunch break, pro bono work

14.24. Pro bono means concerning or involving legal services that are provided for the public good (pro bono publico) without fee or compensation. Sometimes also applied to services given at a reduced rate. Shortened to pro bono.

14.25.
(a) blended hourly rate: a single hourly rate based on a blend or mix of the rates normally charged by different individuals, e.g., partner, a senior associate, a junior associate, and sometimes a paralegal
(b) fixed fee: a flat fee for services, regardless of the amount of time needed to complete the task
(c) capped fee: an hourly rate leading to a final bill that will not exceed a predetermined amount
(d) bundled and unbundled legal services: bundled legal services are all tasks needed to represent a client; all-inclusive legal services. Unbundled legal services are discreet task representation
(e) task-based billing: charging a specific amount for each legal task performed
(f) hourly plus fixed fee: an hourly rate charged until the nature and scope of the legal problem are known, at which time fixed fees are charged for services provided thereafter
(g) discounted hourly fee: an hourly or fixed fee that is reduced because of the volume of business the client gives the office
(h) contingent fee: a fee that is paid only if the case is successfully resolved by litigation or settlement (the fee is also called a contingency)

(i) incentive billing: a fee that is increased if a designated target is met; an increased fee for achieving an exceptional result

(j) defense contingent fee: a fee received by the defendant's attorney that is dependent on the outcome of the case

(k) retroactive negotiated fee: a client bill that is finalized after the services are rendered

14.26. Value billing is a method of charging for legal services based on factors such as the complexity of the case or the results achieved rather than solely the number of hours spent on the client's case.

14.27. Court costs are charges or fees imposed by the court directly related to litigation in that court.

14.28. A retainer: (1) an amount of money (or other property) paid by a client as a deposit or advance against future fees, costs, and expenses of providing services; (2) the act of hiring or engaging the services of someone, usually a professional (The verb is retain.)

14.29. Valuing the bill means determining whether there should be a write down or write up of a bill sent to the client. Adjusting the bill upwards (e.g., based on the potential liability exposure of the firm) or downwards (e.g., based on whether some of the time spent on the case should be treated as training time).

14.30. When valuing a bill, an increase or write-up is called a premium adjustment (write up); a decrease or write-down is called a discount adjustment (write-down).

14.31. a bank account controlled by an attorney that contains client funds that may not be used for office operating expenses or for any personal purpose of the attorney

14.32. Commingling is avoided by separating general law firm funds from client funds. The latter should be kept in a separate account.

14.33. An IOLTA (Interest on Lawyers' Trust Accounts) program helps fund legal services for the poor with funds that attorneys are required to turn over from interest earned in client trust accounts containing client funds.

14.34. An aged accounts receivable report shows all cases that have outstanding balances due and how long these balances have been past due.
14.35. A timekeeper productivity report shows how much billable and nonbillable time is being spent by each timekeeper.

14.36. A record information manager is in charge of files in a large law office.

14.37.

(a) alphabetical filing system: a method of storing client files in alphabetical order by the client's surname or organization name

(b) numerical filing system: a method of storing client files by numbers or letter-number combinations

14.38. With bar coding in a records management system, a scanner reads each file so that the computer can better keep track of who has which files, how long they have had them, or when they were returned.

14.39. A file that is no longer active in the firm is often called a closed file.

14.40. KM (knowledge management) is a system of linking into the knowledge base of a law office embodied in the documents generated by all of the cases it has handled so that it can better meet the needs of current and prospective clients. KM is a productivity tool for capturing and reusing knowledge.
Answers to Review Questions on Chapter 15

Informal and Formal Administrative Advocacy

(The Review Questions for Chapter 15 are within this study guide.)

15.1. Advocacy is the process by which an individual attempts to influence the behavior of others, often according to predetermined goals.

15.2. A quasi-judicial proceeding is one in which an administrative agency seeks to resolve a dispute in a manner that is similar to a court (i.e., judicial) proceeding to resolve a dispute.

15.3. (a) climb the chain of command: Speak to supervisors of the employee giving you difficulty.
(b) demonstrate the exception: Show that the general rule does not apply due to the uniqueness of your case.
(c) uncover the realm of discretion: Show that the rule is not rigid, that there is room for discretion.
(d) ask for authorization: Insist that you be shown the regulation, law, or other authority that supports the action taken or proposed to which you object.

15.4. (a) notice: You want to be told in advance of the charge against you.
(b) hearing: You want a formal meeting or hearing where you can present your case.
(c) cross-examination: You want to question (cross-examine) your accuser about his/her allegations against you.
(d) bias: You do not want the hearing officer to have been involved in the case earlier; the person making the charge against you should not be the one making the final decision on whether the charge is true.
(e) representation: You want to have someone speak on your behalf.
(f) relevant: You want only relevant evidence to be considered—only what logically tends to establish or disprove a fact related to the charge against you.
(g) written decision: You want a written decision with reasons for the decision.
(h) appeal: You want to be able to appeal the decision to another individual or body.

15.5. An administrative law judge is a government official at an administrative agency who presides over a hearing.
15.6. To be a client representative at a social security hearing you must be appointed by the client, know the “significant issue(s) in a claim,” and have a “working knowledge” of social security statutes, regulations, and rulings.

15.7. A proceeding is nonadversarial when all the opposing parties to the conflict are not present.

15.8. Something is on the record when it is noted or recorded in an official record of a proceeding.

15.9. An affidavit is a written or printed state of facts made by a person (called the affiant) before a person with authority to administer the oath.

15.10. The party can appeal in court.
PART II

WRITING FUNDAMENTALS: RULES, GUIDELINES, AND EXERCISES

As pointed out in Chapter 12 of the text and elsewhere, the legal profession lives by the written word. You will probably never have enough training in the fundamentals of the English language. Take every opportunity to go over the basics.

In Part II of this study guide, there are two sets of writing rules and guidelines:

• Ten Important Writing Topics
• Usage Guidelines

Following these rules and guidelines you will find exercises based on them.

The materials in Part II are based on the following:

• Office of Legislative Counsel, D.C. City Council, *Legislative Drafting Manual* (1979)
• Department of the Treasury, *Effective Writing* (1975).

TEN IMPORTANT WRITING TOPICS

1. COMMA  6. SPELLING
2. SEMICOLON  7. POSSESSIVE
3. COLON  8. NUMERALS
4. DASH  9. SUBJECT/VERB AGREEMENT
5. PARALLELISM 10. NOUN/PRONOUN AGREEMENT

(Usage guidelines follow the last topic.)

**Caution:** To understand these rules and guidelines, you need to understand some basic writing concepts. If any of the following concepts are unclear, place the concept and the word “grammar” in Google or other search engine (Examples: antecedent grammar):

- antecedent
- apposition
- articles
- clause (as opposed to a phrase)
- collective noun
- colloquial
- colon
- compound sentence
- compound words or terms
- conjunction
- dependent clause
- independent clause
- indefinite pronouns
- infinitive
- nominative
- nonrestrictive clause
- objective case
- parenthetic
- personal pronoun
- phrase (as opposed to a clause)
1. COMMA (,)

1.1 Use a comma to separate two words or figures that might otherwise be misunderstood.
EXAMPLES: Instead of hundreds, thousands came.

1.2 Use a comma between an introductory phrase and a direct quotation of only a few words.
EXAMPLES: He said, “Now or never.”

1.3 Use a comma to indicate the omission of a word or words.
EXAMPLES: Then we had much; now, nothing.

1.4 Use a comma between two or more adjectives before a noun.
EXAMPLES: The dean required lengthy, difficult classes.

1.5 Use a comma before and after Jr., Sr., Esq., Ph.D, Inc., within a sentence.
EXAMPLES: Henry Smith, Jr., chairperson.

1.6 Use a comma to set off parenthetic words, phrases, or clauses.
EXAMPLES: Paul Dix, who was then Secretary of State, opposed the bill.

1.7 Use a comma between an introductory dependent clause and the subsequent independent clause.
EXAMPLES: Beset by enemies, he resigned his commission at noon.

Do not use a comma after a short prepositional phrase.
EXAMPLES: At night he was too tired to study.

1.8 Before the conjunction in a compound sentence containing two or more independent clauses, each of which could have been written as a simple sentence.
EXAMPLES: The boy went home alone, and his sister remained with the crowd.

EXAMPLES: Fish, mollusks, and crustaceans were plentiful in the lakes, and turtles frequented the shores.

Note: If you omit the conjunction, use a semicolon.
EXAMPLES: The boy went home alone; his sister remained with the crowd.

See semicolon rules below.

1.9 Use a comma to set off words or phrases in apposition or in contrast.
EXAMPLES: Mary Smith, her attorney, filed the motion.

1.10 Use a comma after each word in a series of three or more words or phrases joined at the end by “and” or “or”.
EXAMPLES: The firm employed clerks, attorneys, and paralegals.

1.11 Use a comma before the conjunction in a compound sentence.
EXAMPLES: The first two trials took two weeks, but the third trial lasted one day.

1.12 Use a comma after a noun or phrase in direct address.
EXAMPLES: Senator, will you support the amendment?
1.13 Use a comma inside the closing quotation mark.
EXAMPLES: “Freedom is out of the question,” he asserted.

1.14 Do not use a comma before a zip code.
EXAMPLES: Boston, MA 02127

2. SEMICOLON (;)

2.1 Use a semicolon to separate items in a list when commas are already used within some of
the items in the list.
EXAMPLES: He traveled to Manchester, New Hampshire; Boston, Massachusetts; Salem, Oregon; and Reno,
Nevada.

2.2 Use a semicolon to separate independent clauses that are not joined by and, but, or, or nor.
EXAMPLES: The plaintiff is indigent; the defendant is wealthy. He is late, but we can proceed.

2.3 Use a semicolon between independent clauses joined by however, therefore, thus, moreover, indeed,
and then.
EXAMPLES: Richards is a great judge; however, he is unpredictable.

2.4 Use a semicolon between independent clauses joined by phrases like for example, for instance,
in fact.
EXAMPLES: There are advantages to settling the case; for example, the trial will be avoided.

2.5 When semicolons are needed and quotation marks are used, place the semicolons outside the
quotation marks.
EXAMPLES: The witness said there was “no one present”; however, the jury felt otherwise.

3. COLON (:)

3.1 Use a colon to call attention to and to introduce a formal quotation.
EXAMPLES: The judge angrily concluded by saying: “This is the last extension I will grant!”

3.2 Use a colon between two independent clauses when the second explains, summarizes, or comments
on the first. (Start the second with a capital letter.)
EXAMPLES: The jury finally resolved the issue: It found for the defendant.

3.3 Use a colon to introduce a list, especially when the list is introduced by the words “the following”
or “as follows.”
EXAMPLES: He asked her to bring the following: the original motion, the response, and the brief.

3.4 Use a colon after a salutation in a formal letter.
EXAMPLES: Dear Mr. Henderson:

3.5 Use a colon to separate a title of a book from its subtitle.
EXAMPLES: Introduction to Paralegalism: Perspectives, Problems, and Skills

3.6 Use a colon when stating clock time.
EXAMPLES: 5:12 A.M.
4. DASH (–)

4.1 Use a dash to mark a sudden break or abrupt change of thought.
EXAMPLES: He said—and no one contradicted him—that he is innocent.

4.2 Use a dash to mark or set off a brief summary.
EXAMPLES: Fortitude, energy, and luck—we will need them all to win.

4.3 Do not use a dash immediately after a comma, colon, or semicolon.
EXAMPLES:
SAY: It contains the following evidence: guns, knives, and spears.
DO NOT SAY: It contains the following evidence:—guns, knives, and spears.

5. PARALLELISM

5.1 General rule of parallelism: Items in a list should be of equal grammatical value. All items that are parallel in thought must be alike in construction.

5.2 If you want the list to contain nouns, do not allow a verb to replace one of the nouns.
EXAMPLES:
SAY: The attorney wanted an extension and a settlement.
DO NOT SAY: The attorney wanted an extension and to settle. [This list is not parallel because it mixes a noun (extension) with a verb (to settle).]

5.3 If the first item in your list is an ing word, the remaining item(s) in the list should be ing words.
EXAMPLES:
SAY: He enjoys debating, bargaining, and negotiating.
DO NOT SAY: He enjoys debating, bargaining, and negotiation. [This list is not parallel because it mixes ing words with a tion word.]

5.4 If the first item in your list is an ed verb, the remaining item(s) in the list should be ed verbs.
EXAMPLES:
SAY: He is exhausted, frightened, and shocked.
DO NOT SAY: He is exhausted, frightened, and in a state of shock. [The last item in this list is not parallel with the other two. The last item is an infinitive verb, not an ed verb.]

5.5 The same prepositional phrase can cover all items in a list. If you wish to repeat the prepositional phrase, do so for every item in the list.
EXAMPLES:
SAY: The agency agreed with Dan, Mary, and me.
DO NOT SAY: The agency agreed with Dan, with Mary, and me.
OR SAY: The agency agreed with Dan, with Mary, and with me.

5.6 Avoid placing some items in the list in the active voice (e.g., John calls) and others in the passive voice (e.g., Jim is called).
EXAMPLES:
SAY: As Ted meets the conditions, Bob accepts them.
DO NOT SAY: As the conditions are met by Ted, Bob accepts them. [The parallelism error here is that the first clause is in the passive voice, but the second is in the active voice.]
5.7 If the first item in your list is a noun, do not make the remaining item in the list a clause. Or, make all items clauses.

EXAMPLES:
SAY: He asked for her help and for my noninterference.
OR SAY: He asked that she help and that I refrain from interfering.
DO NOT SAY: He asked for her help and that I refrain from interfering. [This is not parallel because the first item in the list contains a noun (help), but the second contains a clause (that).]

5.8 Other parallelism rules:
(a) If the first item in the list is an infinitive (e.g., to call), all items in the list should be infinitives.
(b) If the first item in the list is a phrase (e.g., the date of payment), all items in the list should be phrases.
(c) If the first item in the list is a clause (e.g., which is now available), all items in the list should be clauses.
(d) If more than one item in the list begins with an article (e.g., the, an, a) all items in the list should begin with an article.

6. SPELLING

6.1 Although there are some spelling rules (e.g., i before e except after c . . .), most spelling problems are resolved by memorizing the correct spelling of a word. Do not wait for spelling rules. Start memorizing now.

Here are 151 frequently misspelled words in legal writing that you should know how to spell. For words that are new to you, check them in a standard dictionary.

151 Frequently Misspelled Words in Legal Writing

Steps to take:

- Give this list to a friend or relative.
- Ask him or her to read you the list (perhaps 20 twenty words at a time).
- Spell the words as they are read to you.
- Write down every word you spell incorrectly.
- Memorize the spelling of the words you misspelled.
- Ask someone to read to you from the list of words you misspelled.
- Memorize the spelling of the words you misspelled again.

| aberration | analogous | casual | defense | enrollment |
| abridgment | anomalous | catalog | dependent | entranch |
| abysmal | anonymous | causal | descendant | entrust |
| accessory | appalling | cigarette | dissension | exonerate |
| accommodate | assassinate | cocaine | divorce | fetal |
| acknowledge | behoove | colossal | embarrass | fetch |
| acknowledgement | benevolence | commingling | employee | fiche |
| advice | biased | consensus | enclose | foresee |
| advise | calendar | consignor | encumber | foreseeable |
| adviser | canceled | controlling | encumbrance | germane |
| aide | cancellation | corollary | encyclopedia | glamour |
| aluminum | cannot | counseling | enforcement | goodbye |
6.2 In forming the plurals of compound terms, the significant word takes the plural form.

**EXAMPLES:**
- attorneys at law
- brothers-in-law
- comptrollers general
- courts-martial
- daughters-in-law
- grants-in-aid
- heirs at law
- mothers-in-law
- inspectors general
- notaries public
- prisoners of war
- rights-of-way

7. **POSSESSIVE (’s) (’s)**

One way to show possession or ownership is to use an apostrophe (’).

**EXAMPLES:**
- the judge’s robe
- the judge’s robes
- the attorney’s complaint
- the attorney’s complaints

**7.2 If the word you want to make possessive is singular and already ends in “s,” add an apostrophe and an “s” (’s)**

**EXAMPLES:**
- Judge Jones’s opinion
- Judge Jones’s opinions
- Lois’s attorney
- Lois’s attorneys
7.3 If the word you want to make possessive is plural and already ends in “s,” add an apostrophe alone (’) after the “s.”

EXAMPLES:
my ten friends’ participation
my ten friends’ careers
two actors’ agreement
two actors’ parts
all the hostesses’ tips
all the hostesses’ restaurant

7.4 If the word you want to make possessive is plural and does not end in “s,” add an apostrophe and an “s” (’s)

EXAMPLES:
men’s fears
men’s room
children’s money
children’s raincoats

7.5 For joint possession, follow the above rules for the last noun only.

EXAMPLES:
Bill and Ed’s family
Bill and Ed’s profits
father and sons’ game
father and sons’ companions

7.6 If the word you want to make possessive is a compound word, add an apostrophe and an “s” (’s)

EXAMPLES: my brother-in-law’s will

7.7 If there is no possession or ownership, do not use the possessive case.

EXAMPLES:
SAY: He prepared four assignments together.
DO NOT SAY: He prepared four assignment’s together.
DO NOT SAY: He prepared four assignments’ together.

7.8 Possessive personal pronouns and relative pronouns do not take apostrophes.

EXAMPLES:
SAY: its car is broke.
DO NOT SAY: it’s car is broke.
[Only say it’s if you mean it is.]

SAY: whose car is it?
DO NOT SAY: who’s car is it?
[Only say who’s if you mean who is]

SAY: the cars are ours.
DO NOT SAY: the cars are our’s.

SAY: the car is hers.
DO NOT SAY: the car is her’s.

SAY: the cars are theirs.
DO NOT SAY: the cars are their’s.

SAY: the cars are yours.
DO NOT SAY: the cars are your’s.

8. NUMERALS

8.1 Spell out numbers of one or two words.

EXAMPLES:
SAY: in seven courts
DO NOT SAY: in 7 seven courts

SAY: there were thirty-two appeal s.
DO NOT SAY: there were 32 thirty-two appeals.

SAY: he estimated two thousand votes.
DO NOT SAY: he estimated 2,000 two thousand votes.

SAY: over twenty million entrants
DO NOT SAY: over 20,000,000 twenty million entrants
8.2 Use numerals for numbers of three or more words.

EXAMPLES:
SAY: in 157 courts
DO NOT SAY: in one hundred fifty-seven courts
SAY: there were 2,307 appeals.
DO NOT SAY: there were two thousand three hundred and seven appeals.
SAY: he estimated 3,100,000 votes.
DO NOT SAY: he estimated three million, one hundred thousand votes.

8.3 When a sentence begins with a number, always write out the number even if the number is three or more words.

EXAMPLES:
SAY: Five hundred paralegals attended the conference.
DO NOT SAY: 500 paralegals attended the conference.

8.4 Use numerals in dates and addresses.

EXAMPLES:
March 13, 1943
465 East River Road
Boston, MA 02127

9. SUBJECT-VERB AGREEMENT

9.1 Subject and verb must agree in number (meaning both must be singular or both must be plural) regardless of whether nouns or pronouns appear between the subject and verb.

EXAMPLES:
The courts are (not is) in session.
The courts on the first floor complex of the building are (not is) in session.

9.2 Subjects connected by and are usually plural for purposes of agreement.

EXAMPLES: Verbose writing and inconsistent reasoning irritate (not irritates) the senior partner.

9.3 Singular subjects joined by or typically require singular verbs.

EXAMPLES: Smith or Jones teaches (not teach) in the spring.

9.4 Singular subjects joined by neither . . . nor typically require singular verbs.

EXAMPLES: Neither the cost nor the quality has (not have) changed.

9.5 Singular subjects joined by either . . . or typically require singular verbs.

EXAMPLES: Either the attorney or the paralegal has (not have) the appellate brief.

9.6 If one subject is singular and the other subject is plural, the verb should agree with the closer subject.

EXAMPLES: Either the attorney or the paralegals have (not has) the appellate brief.

9.7 The following indefinite pronouns are usually singular:

anyone  everything
anybody  neither
each  none
either  no one
everyone  somebody
everybody  someone

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EXAMPLES:
Everyone appreciates (not appreciate) the gesture.
Anyone of the judges is (not are) available.

9.8 The following words require a singular or a plural verb depending on their meaning:
all
any
half
some
EXAMPLES: Some attorneys win (not wins) cases for their clients.

9.9 Collective nouns such as committee, crowd, class, majority, and family usually require a singular verb.
EXAMPLES:
The family sleeps (not sleep) there.
The majority of the court favors (not favor) capital punishment.

9.10 Nouns singular in meaning but plural in form normally require singular verbs.
EXAMPLES: The acoustics in the court is (not are) excellent.

9.11 The title of a book or periodical requires a singular verb even if the title is plural in form.
EXAMPLES: The Daily News is (not are) on sale.

9.12 A relative pronoun (who, that, which) used as a subject requires a singular or plural verb to agree with its antecedent.
EXAMPLES: Judge Bennett is one of the local judges who has (not have) spoken.

10. PRONOUN-NOUN AGREEMENT

10.1 Pronouns must agree with their antecedents in number, meaning that both must be singular or both must be plural.
EXAMPLES: Each one of these women must make her (not their) position known. (The antecedent is “each one” —singular, not “women” —plural.)

10.2 When antecedents are connected by and, use a plural pronoun.
EXAMPLES: Tom and Joe won their (not his) party nominations.

10.3 When antecedents are connected by or or by nor, the pronoun should agree with the nearest antecedent.
EXAMPLES:
Tom or Joe will show his (not their) plans first.
The city and the towns have presented their (not, has presented its) budget.

10.4 Collective nouns such as committee, crowd, class, board, audience, majority, team, and family take singular or plural pronouns according to whether the collective noun functions in the singular (as a unit) or in the plural (as individuals within the unit).
EXAMPLES:
Try to persuade the board of directors that it is wrong.
The board of directors disagree on whether their salaries should be increased.

10.5 Indefinite pronouns are usually singular: anyone, anybody, each, either, everyone, everybody, everything, neither, no one, nobody, somebody, someone.
EXAMPLES:
Each of the boys brought his (not their) car.
Everyone appreciates his (not their) mentor.
Everyone appreciates her (not their) mentor.
USAGE RULES AND GUIDELINES

by
William Statsky & John Wernet
West Group, 1995

(Exercises follow these usage rules.)
ability, capacity

Ability is the mental, physical, financial, or legal power to do something. Capacity is the ability to absorb, contain, or hold something.

Examples:
- ability to communicate effectively
- ability to pay
- a courtroom filled to capacity

abjure, adjure

Abjure means to repudiate or renounce. Adjure means to command something, often under oath.

Examples:
- abjure the belief
- adjure them to stop the picketing

above

Above is frequently used in the law to refer to material previously discussed.

Examples:
- the doctrine discussed above
- the above material

Make sure that the reference is clear. Will the reader know what you are referring to “above”? If not, avoid using the word. Use a less vague reference.

accept, except

Accept means to receive with approval or to agree with. As a verb, except means to leave out; as a preposition, it means other than.

Examples:
- I accept the offer.
- he was excepted from the requirements
- all the cases except the ones that were overruled

accident, mishap

An accident is an unexpected occurrence, which may or may not be bad. A mishap is an unfortunate, usually minor, accident.

Examples:
- money found by accident
- suffer a mishap

acquaint, know

Know means to have an awareness of something; acquaint means to make aware.

Examples:
- know the facts
- acquaint the audience with the case

acknowledge, admit, concede

These words mean to accept the existence or truth of something, often with some hesitation. When something is admitted, it is usually done much more reluctantly than when it is acknowledged. Concede means to yield.

Examples:
- acknowledge the mistake
- admit guilt
- concede the argument

actual, real

Both words mean existing in fact. Real suggests something demonstrative or objectively present.

Examples:
- actual intent
- real evidence

adjacent, contiguous

Adjacent means lying near or close by; contiguous means touching or in actual contact.

Examples:
- Maine and Rhode Island are adjacent states
- Maine and New Hampshire are contiguous states

adjudge, judge

Adjudge means to adjudicate, to make a formal decision. Judge also means to consider and to rule, but it can be used in less formal settings.

Examples:
- adjudged to be in contempt
- judge of character

adoptive, adopted

Adoptive means related by adoption. Adopted refers to the person accepted by others through the legal process of adoption.

Examples:
- adoptive father
- adopted child

DO NOT SAY: don’t say adopted father

adverse, averse

Adverse means opposed or against one’s interest. Averse means a feeling of distaste, a disinclination.

Examples:
- adverse claim
- adverse circumstances
- averse to the settlement offer
advice, advise
Advice is a noun meaning opinion, counsel, recommendation, or suggestion. Advise is a verb meaning to counsel or give advice.
Example:
• the lawyer advised the client to accept the advice of the doctor

advise, notify, inform (see also “advice”)Advise is an overly formal way to say notify or inform.
SAY: notify us of the verdict
DO NOT SAY: advise us of the verdict

affect, effect (see also “effect,”; “impact”)Affect is a verb meaning to have an influence on. As a verb, effect means to bring something about or to cause. As a noun, effect means the result.
Examples:
• the ruling affects all contractors
• the supervisor effected changes
• the effect of the verdict

aforementioned, aforesaid
These words are verbose ways of saying “mentioned earlier.”
SAY: the theory discussed on page 5
DO NOT SAY: the aforementioned theory or the aforesaid theory
DO NOT SAY: the aforesaid theory

aggravate, irritate, annoy
Aggravate means to make something worse, to add to the problem. Avoid using it to mean to annoy or to provoke. Irritate means to vex, harass, or disturb. “Annoy” is a less severe form of “irritate.”
Examples:
• aggravate an injury
• irritate the judge

ago, since
Use ago when you mean from the present to the past. Use since when you mean from the past to the present. Do not use both words together.
Examples:
• the court announced the decision an hour ago
• we have not eaten since breakfast
DO NOT SAY: I received the diploma three months ago since the last class.

aid, aide
Aid means help or support. Aide is a person who provides help or support, an assistant.
Examples:
• aid provided by the aide

alibi
Do not use this alibi to mean excuse or apology in general. Use it as the legal defense of being somewhere else at the time of the crime.

allege, contend
Allege means to state that something is true without proving it. Contend means to maintain or assert a position. Do not use “contend” unless disagreement exists. When it does not exist, “say” or “said” are preferable.
Examples:
• the report alleged fraud
• to respond to the report
• she contended that there was no fraud

allow, permit
Allow means to let happen, suggesting the absence of an affirmative prohibition. Permit is more forceful, suggesting an affirmative authorization.
Examples:
• the animals were allowed to wander
• the judge did permit the extension

all ready, already
All ready means fully prepared, or completely ready. Already means earlier, previously, or before.
Examples:
• they were all ready
• she is already gone

all right, alright
All right is often misspelled as alright. Never use the latter word.

all together, altogether
All together means in agreement or present in one place. Altogether means completely or entirely.
Examples:
• the lawyers were all together for a bench conference
• the statement was not altogether true

allude, refer
Use allude for an indirect reference, and refer for a direct or specific reference.
Examples:
• the witness alluded to the problem
• the lawyer referred to eXhibit Z

allusion, illusion
Allusion is an indirect reference. Illusion is a false image or hallucination.
Examples:
- she objected to an allusion that she was involved in organized crime
- the illusion of grandeur

**alternative, alternate**

**Alternative** means one of two possibilities. An **alternate** is a substitute.

Examples:
- the alternative of prison or probation
- an alternate on the jury

Use **alternative** only when there is a choice between two options. If there are more than two, say “choice,” “preference,” “selection,” “pick,” etc.

SAY: three choices
DO NOT SAY: three alternatives

**ameliorate, mitigate**

**Ameliorate** means to improve or make better. **Mitigate** means to make less severe.

Examples:
- ameliorate his living conditions
- mitigate the damages

**amiable, amicable**

Both words mean friendly. **Amiable** suggests a sweetness, while **amicable** emphasizes the lack of bitterness or hostility.

Examples:
- amiable personality
- amicable settlement

**among, between**

Generally, use **among** when comparing more than two items, and **between** when comparing two items. “Between” can be used when more than two items are involved if each item is being considered individually or in relation to each other.

Examples:
- listed among the wounded
- divided between employee and employer
- understanding between nations
- between the lines

**amoral, immoral, unmoral, nonmoral**

**Amoral** means neither moral nor immoral; not to be judged by moral standards. **Immoral** means contrary to moral standards. **Unmoral** means unable to distinguish right from wrong. It has close to the same meaning as “amoral.” The same is true of **nonmoral**, meaning not connected with morality.

Examples:
- animals are amoral
- an immoral gambling contract
- immoral behavior of the mentally incompetent adult

**amount, in the amount of**

**In the amount of** is verbose. Use **for** whenever possible.

SAY: a check for $100
DO NOT SAY: a check in the amount of $100

**amount, number**

**Amount** refers to things in the aggregate or in bulk. **Number** refers to things that can be counted one by one.

Examples:
- amount of tension
- amount of nitrogen
- number of volumes

**ampersand (&)**

An ampersand (&) is the symbol for the word **and**. Use it only if it is part of the official name of a company or firm. Do not use an ampersand as shorthand for “and.” Also, do not use the plus sign (+) as shorthand for “and.”

SAY: reversed and remanded
DO NOT SAY: reversed & remanded

**and/or**

Avoid using **and/or** in formal writing; it can be ambiguous. When you mean “one or the other or both,” say so explicitly.

SAY: the affidavit must be signed by the plaintiff, or her attorney, or both
DO NOT SAY: the affidavit must be signed by the plaintiff and/or her attorney

**and which**

Use **and which** in a clause only if “which” appears in a preceding clause. If possible, rewrite to avoid using “which.”

SAY: the first course, which I took and which I passed
DO NOT SAY: the first course I took and which I passed
EVEN BETTER: the first course I took and passed

**angle**

In formal writing, do not use **angle** to mean point of view.

SAY: her perspective on the case
DO NOT SAY: her angle on the case

**announce, annunciate**

Both words mean to proclaim or declare. **Announce** is preferred.
ante, anti
Ante is a prefix that means before, prior, or in front of. Anti is a prefix that means opposed to or against. A hyphen is not needed unless “anti” precedes a proper name or the letter “i.”
Examples:  
• antenuptial agreement  
• anteroom  
• antidiscrimination ordinance  
• anti-American demonstration
anticipate, expect
Anticipate is an overly formal (and sometimes ambiguous) substitute for the word expect.
SAY: expect opposition; we expect the letter to go out today  
DO NOT SAY: anticipate opposition; we anticipate that the letter will go out today
Anticipate is proper when you mean to look forward to something occurring.
Example:  
• anticipate the visit
any (see also either)
Do not use the word any if it adds nothing to the sentence.
SAY: it does not help; are we nearer?  
DO NOT SAY: it does not help any; are we any nearer?
anybody, any body
Say anybody (one word) when you mean any person. Say any body (two words) when you are referring to corpses or focusing on specific items.
Examples:  
• anybody can answer  
• the police did not find any body
Anybody takes a singular verb.
Example:  
• anybody is eligible
anymore, any more
Anymore means “from now on,” or “at the moment.” Any more means something additional.
Examples:  
• the court does not sit anymore  
• are there any more forms?
any one, anyone (see also anybody)
Say any one (two words) only when you are referring to any single person or thing. Say anyone when you are referring to persons or things in general.
Examples:  
• any one of the proposals is acceptable  
• anyone can come
anyplace, anywhere
Avoid using anyplace as a substitute for anywhere.
SAY: sit anywhere  
DO NOT SAY: sit anyplace
apparent, evident
Both words mean obvious and clear, but with different shades of meaning. Apparent suggests the use of reasoning, while evident suggests the presence of objective or external indications.
Examples:  
• it is apparent that the theory will not succeed  
• evident defects
appraise, apprise
Appraise means to evaluate or to judge. Apprise means to give notice or to inform. Do not spell apprise with a “z” (apprize).
Examples:  
• appraise the furniture  
• apprise the suspect of her rights
apt, prone, likely, liable
All of these words can mean probably, having a tendency, or inclined. Use apt or prone when referring to a natural tendency or habit that is unpleasant or undesirable.
Examples:  
• apt to fall  
• prone to error  
• likely to succeed
The primary meaning of liable is legally responsible. Avoid using it to mean probability, even in an unpleasant or undesirable context.
SAY: he is apt to drink to excess and have an accident  
DO NOT SAY: he is liable to drink to excess and have an accident
arbitrate, mediate
To arbitrate is to render a decision at the invitation of both parties. To mediate is to act as go-between to encourage the parties to come to a mutually satisfactory resolution on their own.
as, because, since (see also because)
Do not use as as a substitute for because or since.
SAY: he filed the claim because he qualified for it  
DO NOT SAY: he filed the claim as he qualified for it
as . . . as
When as is used in a comparison, complete the sentence in order to determine whether the pronoun that follows should be nominative or objective.
Examples:
• she is as wise as I (the nominative “I” is used because if you completed the sentence, it would read: “she is as wise as I am.”)
• the verdict shocked him as much as me (the objective “me” is used because if you completed the sentence, it would read: “the verdict shocked him as much as it shocked me.”)

as if, as though
As though is preferable to as if in formal writing.
Use a subjunctive verb after this phrase.
SAY: the witness acts as though he were knowledgeable
DO NOT SAY: the witness acts as if he is knowledgeable

ask a question
The phrase is redundant: Ask or question alone is sufficient.
SAY: ask her
SAY: question her
DO NOT SAY: ask her a question

as per, as regards, with regard to
Avoid using these clumsy expressions.
SAY: as you instructed; concerning your letter; about your application
DO NOT SAY: as per your instructions; as regards your letter; with regard to your application

as such
Avoid using this awkward phrase.
SAY: the coins are rare and valuable
DO NOT SAY: The coins are rare; as such, they are valuable

assume, presume
While these words are often used interchangeably, assume suggests a reasoning process, whereas presume means to take for granted without proof.
Examples:
• from reading the transcript, I assumed that he was present
• presumed to be innocent

assure, insure, ensure
Assure means to give confidence and to set one’s mind at ease. Ensure and insure are often interchangeable.
When you mean to guarantee against the risk of loss, insure is most commonly used.
Examples:
• assure the defendant that we will do our best
• insure the spouse, with the child as beneficiary
• insure the car against theft

as to, about
Generally, as to should not be used as a substitute for about.
SAY: we are unsure about the trial date
DO NOT SAY: we are unsure as to the trial date

as to whether
Avoid using this awkward and wordy phrase.
SAY: unsure whether to come
DO NOT SAY: unsure as to whether to come

as well as, both
As well as and both do not need to be used together.
SAY: both John and Jim
DO NOT SAY: both John as well as Jim

at about
Avoid using this phrase.
SAY: arrived at noon; arrived about noon
DO NOT SAY: arrived at about noon

at present
Omit this phrase if it adds nothing to the sentence.
SAY: we are preparing a handbook
DO NOT SAY: we are preparing a handbook at present

attached hereto
The phrase is almost always redundant.
SAY: the document is attached
DO NOT SAY: the document is attached hereto

at this point in time
A wordy way to say “now.”

author
Avoid using this word as a verb. As a noun, use it for men and women; do not use the word “authoress.”
SAY: write the memo; she is an author
DO NOT SAY: author the memo; she is an authoress

awhile, a while
Awhile is an adverb that means “for a short time.” (Hence, do not use the word “for” before awhile since it is already included in its meaning.) The word “while” is a noun meaning a period of time. A while, therefore, means “a period of time.” “For” can be used with this phrase.
Examples:
• wait awhile until I return
• wait for a while before you decide to litigate
back down, back up, back out
Generally, these words are colloquial and should not be used in formal writing.

backward, backwards
Both words are proper as adverbs. Only “backward” is proper as an adjective.
Examples:
• move backward
• move backwards
• a backward move (not a backwards move)

bad, badly
Bad and badly are often misused with verbs such as look and feel.
SAY: I feel bad
DO NOT SAY: I feel badly (unless you mean that your sense of touch is weak or impaired)
Use “badly” as an adverb.
Example:
• sung badly
Also, badly should not be used to mean “very much.”

be advised that
Avoid using this overly formal phrase.
SAY: you must appear
DO NOT SAY: be advised that you must appear

because, reason is because
Because means for the reason that or since. Hence it is redundant to say, “reason is because.”
SAY: he was fined because of the report
DO NOT SAY: he was fined; the reason is because of the report.
SAY: the reason is that (If you need to say the reason is)
DO NOT SAY: the reason is because.
Example:
• the reason he succeeded is that he worked harder than the others

beside, besides
Do not say besides when you mean next to.
SAY: beside the lake
DO NOT SAY: besides the lake
Besides is an adverb meaning moreover. It can also mean in addition to and except for.

between you and I
The correct phrase is between you and me. The preposition between takes the objective case.

biannual, semiannual, biennial
Biannual and semiannual mean occurring twice a year. Biennial means occurring once every two years or lasting two years.
Examples:
• biannual conferences in March and November
• semiannual conferences in March and November
• biennial congress in 2007 and 2009

bimonthly, semimonthly
Bimonthly means occurring every other month. Semimonthly means occurring twice a month.
Examples:
• bimonthly meetings in January, March, and May
• semimonthly reports on the first and last week of each month

black, blacks, white, whites
Do not capitalize these words when referring to race.

blame on
Rewrite to avoid using this phrase.
SAY: he blamed Joe
DO NOT SAY: he placed the blame on Joe

brake, break
Brake is a device for stopping something. Break means to split or crack something.
Example:
• excessive pressure will break the truck’s brake

breath, breath, breathe
Breath is a side-to-side measurement. Breath is air taken in and out in respiration. Breathe is the verb meaning to inhale and exhale air.
Examples:
• three inches in breadth
• her first breath after awaking
• breathe slowly
brin, take
Use bring when moving toward something and take when moving away from something.
Examples:
• bring the treatise to the library
• take the treatise out of the library
• bring the exhibits with you (they are somewhere else at present)
• take the exhibits with you (they are now here and can be removed)

but what, but that
Avoid using these colloquial phrases.
SAY: I have no doubt that he is competent
DO NOT SAY: I have no doubt but that (or but what) he is competent

but yet
This phrase is redundant.
SAY: we thought we understood torts, but we failed the exam
DO NOT SAY: we thought we understood torts, but yet we failed the exam

C

Can, may
Can indicates the ability or freedom to do something.
May indicates permission.
Examples:
• she can do legal research
• she may use the law library

cancel out
The out in this phrase is redundant.

cannot
Do not spell this as two words (can not) unless you are placing great emphasis on the word not.

cannot but, can’t but, cannot help but
Avoid using these awkward phrases.
SAY: cannot help admiring
DO NOT SAY: cannot but admire; can’t help but admire

can’t
Spell this word out in formal writing: cannot.

canvas, canvass
Canvas is the noun meaning a heavy piece of fabric.
Canvass is the verb meaning to solicit or request.
Examples:
• stand on the canvas
• he canvassed the block for votes

capitol, capital
Capitol is a building, an edifice. The main meanings of capital are a city, a form of wealth, and chief.
Examples:
• visiting the senator at the capitol in Albany
• the capital of New York

case of
This phrase is usually redundant.
SAY: in Johnson v. Smith
DO NOT SAY: in the case of Johnson v. Smith

center around, center on
Avoid using the phrase center around. Instead, say center on or center in.
SAY: the brief centered on the estoppel theory
DO NOT SAY: the brief centered around the estoppel theory

character, nature
Avoid using these words unnecessarily.
SAY: the argument is specious
DO NOT SAY: the argument is of a specious character

cite, site, sight
Cite means to make reference to written material.
A site is a place or location. Sight is the ability to see.
Examples:
• cite the opinion
• site of the accident
• Internet site
• impaired sight

claim, assert, maintain
Use claim to imply doubt or a legal right. Use assert or maintain to emphasize truth.
Examples:
• a fraud claim
• he asserted that he was not there
• he maintained that he was not there

close proximity
This phrase is redundant since proximity means close in place or time.
SAY: the car is close to the edge
DO NOT SAY: the car is in close proximity to the edge

closure, cloture
Closure is the act of closing something; a conclusion.
Cloture is a legislative procedure that terminates debate so that a vote can be taken.
Examples:
• bring the matter to closure
• cloture was invoked to end the filibuster
collusion, connivance
Collusion is an agreement to defraud, using the forms of the law. Connivance is an indirect consent or permission to allow another to commit an unlawful act.
Examples:
- collusion by the husband and wife in pretending that grounds for divorce existed
- connivance of the mayor in not notifying the police when she heard that the money was going to be embezzled

commence, begin, initiate
For everyday events, use begin. For normal legal matters and other relatively important events, use commence. For very serious events, use initiate.
Examples:
- begin work
- commence litigation
- initiate the investigation

common, ordinary
Common suggests what is shared by many. Ordinary suggests a lack of distinction.
Examples:
- common knowledge
- ordinary soldier

compare, contrast
When you compare, you emphasize similarities and differences. When you contrast, you emphasize differences.
Examples:
- compare the two offers
- contrast the civil law with the common law

compare and contrast
This phrase is redundant since compare means to point out similarities and differences.

compare to, compare with
Compare to suggests an existing similarity. Compare with suggests calling attention to differences and similarities.
Examples:
- he was flattered when Jones compared him to the partner
- compare the testimony with the prior statements

complement, compliment
Complement means to supplement, complete, or bring to a whole. Compliment means a flattering remark.
Examples:
- the colors complement the design
- an unexpected compliment

compose, comprise, include
Compose means to constitute or make up. Comprise means to consist of or to include. The parts compose the whole; the whole comprises the parts.
Examples:
- the twelve counties compose the state
- the state comprises twelve counties

When you say include, you are usually referring to less than all of the parts. When you say comprise, you are usually referring to all of the parts.
Examples:
- the play comprises three acts
- the play includes songs and dances

concept, conception
Concept is a thought or general idea. Conception is one's understanding of something.
Examples:
- the concept of equity
- they had no conception of the magnitude of the loss

concur with, concur in
Say concur with when the agreement is with a person. Say concur in when the agreement is with anything else.
Examples:
- Judge Smith concurred with Judge Jones
- I concur in the result

connotation, denotation
Connotation is the suggestive or secondary meaning of the word or phrase. Denotation is the literal meaning of the word or phrase.
Examples:
- the connotation of widow is loneliness and grief
- its denotation is a woman whose husband has died

consecutive, successive
Consecutive means following without interruption. Successive means following in logical order, which may or may not involve interruption.
Examples:
- a consecutive sentence is served immediately after the prior sentence

consensus of opinion
This phrase is redundant.
SAY: the consensus was to adjourn
DO NOT SAY: the consensus of opinion was to adjourn
**consistently, constantly**
Consistently means uniformly. **Constantly** means persistently, continually recurring.
Examples:
- consistently wrong
- constantly interrupting

**contact**
Do not use this word to mean to get in touch with.
SAY: telephone him, write to him, communicate with him.
DO NOT SAY: contact him

**contagious, infectious**
**Contagious** means transmitted by physical contact. **Infectious** means transmitted without actual contact (e.g., through disease-carrying organisms in water, air, etc.).

**contemptible, contemptuous**
**Contemptible** means deserving contempt. **Contemptuous** means showing contempt.
Examples:
- contemptible lie
- he was contemptuous of the police officer

**continual, continuous**
**Continual** means happening over and over, but with interruptions. **Continuous** means happening without interruption.
Examples:
- continual harassment
- continuous weekend snow

**convince, persuade**
**Convince** means to cause someone to believe something. **Persuade** means to induce someone to act.
Examples:
- she convinced me that I had a cause of action
- she persuaded me to litigate

**cooperate together**
A redundant phrase.
SAY: they cooperated on the project
DO NOT SAY: they cooperated together on the project

**controversial issue, noncontroversial issue**
An **issue** is a question about which there is disagreement. Therefore, to call say a **controversial issue** is redundant, and to call it **noncontroversial** is a non sequitur. By definition, an issue must be controversial.

**co-respondent, correspondent**
A **co-respondent** is someone with whom your spouse allegedly committed adultery. A **correspondent** is someone with whom you communicate in writing.
Examples:
- she was named as the co-respondent in the wife's divorce action against her husband
- a correspondent in China

**could of, should of, would of**
The **of** in these phrases should be **have**.
SAY: could have succeeded; should have succeeded; would have succeeded
DO NOT SAY: could of succeeded; should of succeeded; would of succeeded

Also avoid using the contractions **could've, should've, and would've**.

**counsel, council, consul**
**Counsel** is a lawyer or a group of lawyers. **Counsel** also means the advice by a respected or knowledgeable person. **Council** is an organized body set up to govern or to give advice. A **consul** is a government official who lives in another country in order to represent his or her country's commercial interests.
Examples:
- counsel for the corporation
- wise counsel received from the accountant
- rural county council, council of elders
- trade problems handled by the consul

**counselor, councilor**
A **counselor** is someone who gives advice. A **councilor** is a member of a council. The preferred spelling is with one "l" as indicated here.
Examples:
- counselor at law
- an elected councilor

**country, nation**
A **country** is a physical or geographic territory. A **nation** is a group of people with common customs, history, etc.
Examples:
- France is a country at war
- America is a nation of immigrants

**couple**
When referring to a man and a woman, **couple** can take a plural or a singular verb as long as you are consistent. The plural is preferred.
SAY: the couple are donating their time
DO NOT SAY: the couple are donating its time
course, in the course of
In the course of is redundant.
  SAY: during the trial
  DO NOT SAY: in the course of the trial

credible, creditable, credulous
Credible means plausible, worthy of belief. Creditable
means worthy of praise. Credulous means gullible, overly inclined to believe.
  Examples:
  • a credible witness
  • he did a creditable job digesting the transcripts
  • he is unusually credulous for a person with so much education

criterion, criteria
Criterion is the singular of criteria. The preferred plural of criterion is criteria, not criterions.
  Examples:
  • the criterion used by the commission is efficiency
  • the criteria used by the commission are efficiency and experience

criticize, critique
Avoid using critique as a verb.
  SAY: criticize the presentation; give a critique of the presentation
  DO NOT SAY: critique the presentation

currently
Omit this word if it adds nothing to the sentence.
  SAY: we are preparing a handbook
  DO NOT SAY: we are currently preparing a handbook

customary, usual, habitual
Customary means commonly practiced. Usual means that which is normal and frequent. Habitual means acting by habit or constantly repeating a certain behavior.
  Examples:
  • it was customary for the court to adjourn at noon
  • his usual hostility
  • habitual liar

data, datum
Datum means information. Data is the plural of datum and should, therefore, take a plural verb. Although some grammarians feel that data can also take a singular verb, in formal writing, use a plural verb.
  SAY: the data are available
  DO NOT SAY: the data is available

dead end, dead-end
Dead end is a noun meaning the end of something, like a road. It also means a stalemate or impasse. The adjective form is dead-end.
  Examples:
  • the negotiations reached a dead end
  • a dead-end job

deadly, deathly
Deadly means tending to cause, or causing death. Deathly means resembling death.
  Examples:
  • deadly use of force
  • deathly apparition

decided, decisive, incisive
Decided means definite, without doubt. Decisive means resolute or conclusive. Incisive means perceptive, sharp.
  Examples:
  • a decided advantage
  • a decisive victory
  • an incisive remark

decimate
Literally, this word means to kill every tenth person (a Roman form of punishment). It also means to destroy a large part of something. If, however, you are referring to destruction in a proportion other than ten percent, do not use decimate.
  SAY: destroyed half the population
  DO NOT SAY: decimated half the population

decline, refuse
Decline means to say no politely. Refuse means to say no with a note of insistence or irritation.
  Examples:
  • decline the invitation
  • refuse to answer

deduce, induce
Deduce is to reason from the general facts to a specific conclusion (from cause to effect). This is known as “a priori” reasoning. Induce is to reason from specific facts to a general conclusion (from effect to cause). This is known as “a posteriori” reasoning.
  Examples:
  • since all employees we talked to had received the notice, we deduced that this employee received it
  • from the fact that workers had accidents at the machine on March 13th, March 26th, and July 31st, we induced that the machine was dangerous.
**deem, consider, think**

*Deem* is an overly formal way to say *consider* or *think*.

**Examples:**
- we think the matter is closed; we consider the matter closed
- DO NOT SAY: we deem the matter closed

**defective, deficient**

*Defective* means having a flaw. *Deficient* means insufficient, lacking in amount or degree.

**Examples:**
- defective computer
- deficient in research skills

**definite, definitive**

*Definite* means clearly defined. *Definitive* means decisive and authoritative.

**Examples:**
- definite plans
- definitive ruling

**definitely, absolutely, positively**

Avoid using these words when you mean clearly or certainly.

**Examples:**
- without doubt, I am going
- DO NOT SAY: I am definitely going; I am absolutely going; I am positively going
- EVEN BETTER: I am going

**delusion, illusion**

Both words mean a false image. A *delusion* is more permanent or fixed than an *illusion*.

**Examples:**
- he acted under the delusion that he was George Washington
- his illusion of grandeur vanished when he lost the election

**demise, death**

*Demise* is an overly formal word for *death*.

**Examples:**
- an untimely death
- DO NOT SAY: an untimely demise

**democracy, republic**

When you use the word *democracy*, you are emphasizing the power of the people. When you use the word *republic*, you are emphasizing the power of the people through their elected representatives.

**device, devise**

A *device* is an invention or a product of some kind. A *devise* is a gift of real property (and sometimes personal property) by a will.

**Examples:**
- gambling device
- a devise to his daughter

**diagnosis, prognosis**

*Diagnosis* is a process of studying something. It is also the opinion based on such a study. *Prognosis* is a prediction.

**Examples:**
- a diagnosis of the illness
- the prognosis for recovery

**Different**

Avoid the redundant use of this word.

**Examples:**
- he will visit three cities
- DO NOT SAY: he will visit three different cities

**different from, different than**

Generally, *different from* is preferable to *different than*.

**Example:**
- intent is different from apprehension

**differ from, differ with**

Use *differ from* when emphasizing dissimilarity between things. Use *differ with* when emphasizing differences between persons.

**Examples:**
- civil law differs from common law
- he differed with the judge

**dilemma, predicament**

*Dilemma* involves a choice between two possibilities that are relatively equal in their undesirability. A *predicament* is a problem or an embarrassing situation.

**Examples:**
- he faced the dilemma of accepting the forfeiture or the fine
- the predicament of being without funds in a strange town

**diminish, minimize**

*Diminish* means to make something smaller. *Minimize* means to make something as small as possible.
- Examples:
  - diminish the available assets
  - he tried to minimize his responsibility

**disburse, disperse**
- Disburse means to pay out. Disperse means to scatter or disseminate.
  - Examples:
    - disburse the funds
    - disperse the crowd

**disclose, divulge, said (see also indicate)**
- Do not use disclose or divulge for said unless you mean that something is being revealed or uncovered.
  - SAY: he said that he was tired
  - DO NOT SAY: he disclosed that he was tired
  - DO NOT SAY: he divulged that he was late
    - (unless you mean that this information had some significance)

**discover, invent**
- Discover means to obtain knowledge of something that has existed but has been unknown. Invent means to produce or create something that has never existed.
  - Examples:
    - discover gold
    - discover rampant cheating
    - invent a more powerful computer

**discret, discrete**
- Discreet means being prudent, cautious. Discrete means separate, distinct.
  - Examples:
    - discreet about revealing the news
    - discrete sections of the brief

**disinterested, uninterested**
- Disinterested means impartial, having no bias. Uninterested means showing a lack of interest; indifferent.
  - Examples:
    - a disinterested witness
    - he was so uninterested that he fell asleep during the performance

**disorganized, unorganized**
- Disorganized means disorder, usually in reference to that which was once organized. Unorganized means never having been organized.
  - Examples:
    - disorganized file after considerable use
    - unorganized notes at the beginning of her research

**disposition, temperament**
- Disposition means one's usual frame of mind. Temperament is a more narrow word that refers to one's emotional outlook or traits.
  - Examples:
    - a disposition to accept things at face value
    - a volatile temperament

**divert, avert**
- Divert means to distract or turn something off course. Avert means to turn away or prevent.
  - Examples:
    - divert their attention from the speaker
    - avert disaster

**divide, separate**
- Divide means to partition or split something into parts according to a prior arrangement or plan. It is also used in the sense of splitting into opposing groups or camps. Separate means to partition or disconnect something by removing a component part or by keeping the parts away from each other.
  - Examples:
    - the judge must divide the assets
    - the issue will divide the community
    - the judge ordered the bailiff to separate the witnesses

**divided into, composed of**
- Divided into means to partition or split something into its parts. Composed of means to constitute the parts of something.
  - Examples:
    - the profits were divided into four shares
    - the jury is composed of teachers, tellers, insurance agents, and housewives

**dollars**
- Do not use this word if you also use the dollar sign.
  - SAY: he paid $200
  - DO NOT SAY: he paid $200 dollars

**dominant, predominant**
- Both words mean controlling or exercising the most control. Predominant, however, suggests being overriding or uppermost at a particular time.
  - Examples:
    - the dominant forces seeking change
    - during the meeting, the shareholders were the predominant force
don't, doesn't
Avoid frequent use of contractions in formal writing.
  SAY: do not go; does not speak the language
  DO NOT SAY: don’t go; doesn’t speak the language

doubt that, doubt whether, doubt if
Use doubt that in a negative statement, in a question, and in a statement of unbelief. Use doubt whether to express uncertainty. Avoid doubt if since it is generally considered too informal.
  Examples:
  • there is no doubt that the jury will convict
  • do you doubt that the jury will convict?
  • there is little doubt that the jury is biased
  • we doubt whether any hope of recovery exists

drunk, drunken
Use drunk as a predicate. Use drunken as an adjective.
  Examples:
  • he is drunk
  • a drunken customer

due to the fact that, because
The due to phrase is a wordy way to say because.
  SAY: he lost because he did not file
  DO NOT SAY: he lost due to the fact that he did not file

during the time that, during the course of
These are redundant phrases.
  SAY: arrested while soliciting votes; arrested during the conference
  DO NOT SAY: arrested during the time that he was soliciting votes; arrested during the course of the conference

dying, dyeing
Dying means losing one’s life. Dyeing is the coloring of material.

each other, one another
The traditional view is that each other should be used only when referring to two people, and one another to more than two.
  Examples:
  • the plaintiff and defendant would not look at each other
  • the five attorneys sent memos to one another
  The possessive is ‘s NOT ‘s.
  Examples:
  • Bob and Bill used each other’s books
  • the three students used one another’s books.

eager, anxious
Eager means impatient and desirous. Anxious means worried or distressed.
  Examples:
  • eager to leave the hospital
  • anxious about the doctor's report

eatable, edible
These words, meaning fit to be eaten, are interchangeable.

ecology, environment
Ecology is a narrower word meaning the relationships between organisms and their surroundings. Environment means the total circumstances in a certain setting.

economic, economical
Economic refers to the production and management of wealth. Economical means prudent, not wasteful.
  Examples:
  • economic forecast
  • an economical use of limited resources

effect (see also affect)
Effect can be a noun (meaning the result), or a verb (meaning to bring something about or to cause). As a verb, however, effect is overly formal.
  SAY: the administrator made changes
  DO NOT SAY: the administrator effected changes

effective, efficient
Effective means producing the desired result. Efficient means producing the desired result without wasting effort or time.
  Examples:
  • an effective remedy
  • an efficient management team

e.g., i.e.
E.g. (exempli gratia) means for example; i.e. (id est) means in other words, or, that is.
  Examples:
  • the terms of the will, i.e., what she wanted to do with her property at death
  • the terms of the will, e.g., her husband receives the car, her son receives the stock, her daughter receives the business.

either, any
Use either when you are referring to two. Use any when referring to more than two.
  Examples:
  • they will hire either John or Mary
  • I will read any of the three books

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**either, neither**

*Either* takes a singular verb, even if followed by “of” and a plural. The same is true of *neither*.

Examples:
- either theory is acceptable
- either of the theories is acceptable
- neither theory is acceptable
- neither of the theories is acceptable

**either . . . or, neither . . . nor**

*Or* goes with *either*. *Nor* goes with *neither*.

**SAY:** neither the judge nor the jury

**DO NOT SAY:** neither the judge or the jury

Use a singular verb unless one of the joined nouns is plural. If so, the verb should agree with the noun closest to the verb.

Examples:
- neither the judge nor the jury is in the courtroom
- neither the jurors nor the judge is in the courtroom
- neither the judge nor the jurors are in the courtroom

**elicit, illicit**

*Elicit* means to bring out or to call forth. *Illicit* means illegal.

Examples:
- elicit a response
- illicit transaction

**else but, else besides, else except**

The word *else* can be redundant when used with *but*, *besides*, or *except*.

**SAY:** no one but John came; no one besides John came; no one except John came.

**DO NOT SAY:** no one else but John came; no one else besides John came; no one else except John came.

**emigrate, immigrate**

*Emigrate* means to leave a country and settle elsewhere. The person who emigrates is an emigrant. *Immigrate* means to come into a country to settle. The person who immigrates is an immigrant.

Examples:
- John emigrated from Poland. He is an emigrant.
- Mary immigrated to America. She is an immigrant.

**eminent, imminent, immanent**

*Eminent* means prominent or distinguished. *Imminent* means near at hand. *Immanent* means inherent, remaining within.

Examples:
- an eminent authority on torts
- imminent threat
- immanent in human nature

**empathy, sympathy**

*Empathy* means identifying with the emotions of another. It is a stronger word than *sympathy*, which means understanding and compassion.

Examples:
- empathy between the brothers
- sympathy for the victim

**employ, use**

Do not use *employ* when you mean *use*.

**SAY:** they used ingenuity

**DO NOT SAY:** they employed ingenuity

**enclose, inclose**

The preferred spelling is *enclose*. The following phrases are redundant: enclosed herein, enclosed please find, please find enclosed.

**SAY:** a copy is enclosed

**DO NOT SAY:** enclosed herein is a copy; enclosed please find a copy

**endorse, indorse**

These words mean to place one’s signature on something as part of a legal transfer. They also mean to approve of something. The preferred spelling is *endorse*.

**enormous, immense**

*Enormous* means extraordinarily large. *Immens* means so large that the regular means of measurement are not adequate.

Examples:
- an enormous box
- the immense ocean floor

**envious, jealous**

*Envious* means feeling upset and resentful about what another has. *Jealous* means feeling fear or apprehension about being replaced.

Examples:
- envious of her success
- jealous of the time he spent with her

**episode, incident, event**

All three words mean an occurrence. *Episode* suggests that the occurrence is part of a sequence or series of occurrences. An *incident* is a minor occurrence. An *event* is an important occurrence.
Examples:
• another episode of violence in their feud
• he thought nothing of the incident
• all were present for the event

**equal, perfect, unique**
These are absolute words. Avoid using comparative language with them.
SAY: equal to; is perfect; is unique
DO NOT SAY: more equal than; most perfect of; less unique than

**equivocal, ambiguous, obscure**
*Equivocal* means intentionally unclear. *Ambiguous* means unclear because more than one meaning is possible. *Obscure* means not easily understood, often because it is almost hidden.
Examples:
• an equivocal response
• an ambiguous clause
• an obscure reference

**ergo**
This word means therefore or consequently. Avoid using it in formal writing.

**Esq.**
If *Esq.* is used after an attorney's name, do not use Mr., Ms., etc., and, do not use the word "attorney.”
SAY: Mary Smith, Esq.
DO NOT SAY: Ms. Mary Smith, Esq., Attorney at Law

**essay, assay (as verbs)**
*Essay* means to make an attempt. *Assay* means to subject to analysis.
Examples:
• essay the project
• assay the liquid

**essential, necessary**
*Essential* is stronger than necessary. When something is necessary, it is required and very important, but not always indispensable. When something is essential, it is vital in the sense of continued existence or validity.
Examples:
• an essential element of the tort
• a necessary meeting

**estimate, estimation**
*Estimate* means a preliminary calculation or opinion. *Estimation* means the process of reaching an estimate.
Examples:
• only an estimate could be provided
• the estimation would take several weeks

**et al.**
*Et al.* means “and other persons” (et alii). Avoid using it even in case citations.

**etc., for example; etc., such as**
Do not use *etc.* when you introduce a list by “for example” or “such as.” *Etc.* would be redundant.
SAY: for example, lawyers, paralegals, secretaries
DO NOT SAY: for example, lawyers, paralegals, secretaries, etc.

**every one, everyone**
*Every one* means each individual person or thing. *Everyone* means every person.
Examples:
• every one of the containers has been inspected
• everyone must attend

**everyplace, everywhere**
*Everywhere* is more standard than *everyplace.

**everywhere that**
That is superfluous in this expression.
SAY: everywhere I went
DO NOT SAY: everywhere that I went

**evidence, show**
Do not use *evidence* to mean *show.
SAY: their condition showed no weakness
DO NOT SAY: their condition evidenced no weakness

**exact replica**
The word *exact* is redundant.

**except for the fact that**
This can be shortened to “except that.”

**excess verbiage**
The word *excess* is redundant, since *verbiage* means excess words.

**exhaustive, exhausting**
Examples:
• exhaustive study of the opinions
• an exhausting performance

**expect, suppose, believe, guess**
Do not use *expect* when you mean *suppose, believe, or guess.*
SAY: I believe the jury will reach a verdict today.
DO NOT SAY: I expect the jury will reach a verdict today
explicit, express
Both words mean clearly expressed. Explicit means defined, spelled out. Express is often used in reference to intention or a state of mind.
Examples:
- explicit erotica
- express offer

explicit, implicit
Explicit means clearly expressed. Implicit means implied, understood but not directly expressed.
Examples:
- an explicit rejection by letter
- an implicit rejection by silence

expound, explain
Expound is an overly technical, and often pompous, way to say explain.

extant, extent
Extant means still in existence. Extent means the range or distance of something.
Examples:
- extant language
- the extent of the damage

farther, further
Farther means more distance physically. Further means more distant in degree, quantity, or time.
Examples:
- they drove farther than expected
- the judge would not tolerate further disruption

faze, phase
Faze means to disturb or bother. Phase means an aspect or a stage of something.
Examples:
- the jury was not fazed by the revelation
- the next phase of the project

feasible, possible
Feasible means capable of being done, often to a fair probability. Possible means capable of happening, however slight the odds may be.
Examples:
- a feasible plan
- a possible rejection

female, woman, girl, lady, feminine
Some consider female to be objectionable except in scientific or research contexts. The preferable words are woman, girl, lady, and feminine.
SAY: the suspect is a woman; her feminine appeal
DO NOT SAY: the suspect is a female; her female appeal

fewer, less, smaller
Use fewer when referring to numbers or items that can be counted. Use less with mass or collective nouns, and when the emphasis is on degree. Use smaller when referring to size.
Examples:
- fewer applications
- less hostility
- smaller room

field
This word is overused and rarely adds anything to a sentence.
SAY: she studied law
DO NOT SAY: she studied the field of law

fight with, fight along with, fight against
Avoid using the phrase fight with when it is not clear whether the fight is “along with” or against.
SAY: he fought along with the British; or, he fought against the British
DO NOT SAY: he fought with the British
Figuratively, literally

Figuratively means symbolically, or, “in a manner of speaking.” Literally means actually or really.

Examples:
- he was figuratively on fire with rage
- the bailiff literally lifted him out of the seat

Final culmination

The word final is redundant.

Finalize, complete, conclude

Avoid using the word finalize, meaning to put into final form. Acceptable substitutes are complete, conclude, etc.

Finding, holding

A finding is a formal determination of what the facts are. A holding is a formal determination of how the law applies to the facts. The verb is hold.

Examples
- the court found that the defendant did not file the report, and held him in contempt

Fire, dismiss, discharge

Do not use fire to mean dismiss or discharge someone from employment. It is too informal.

Firstly, secondly, etc.

When presenting a list, it is preferable to:

SAY: first, second, third, etc.,

DO NOT SAY: firstly, secondly, thirdly, etc.

First of all

Of all is unnecessary.

Fit, fitted

The past tense of fit is fit or fitted.

Examples:
- the shoes fit
- the shoes fitted

Use fitted, however, when you mean “to cause to fit” or “to make the right size.”

Example:
- the seamstress fitted the dress

Fix

Use this word to mean to fasten securely or attach. Avoid the colloquial use of fix to mean arrange, repair, prepare, etc.

Flammable, infl ammable, nonflammable

Flammable and infl ammable have the same meaning. They both mean easily ignited or likely to burn. Nonflammable means the opposite.

Examples:
- gasoline is flammable (or infl ammable)
- specially treated mattresses are nonflammable

Flaunt, flout

Flaunt means to brag or show off. Flout means to show contempt for or to defy openly.

Examples:
- flaunt his wealth
- flout the regulations

Flier, flyer

Both words mean one who flies, and a handbill or circular. Flier is the preferred spelling.

Forbear, forebear

As nouns, both words mean an ancestor, but forebear is the preferred spelling. As a verb, forbear (not forebear) means to resist or restrain.

Examples:
- created by her forebears
- forbear responding

Forbid . . . from

Do not use this construction.

SAY: forbid you to enter

DO NOT SAY: forbid you from entering

Forced, forceful, forcible

Forced means involuntary or unnatural. Forceful means having strength or effectiveness. Forcible means brought about by physical force.

Examples:
- forced landing
- forceful argument;
- forcible entry

Formally, formerly

Formally means formal or in accordance with custom. Formerly means at an earlier time.

Examples:
- dressed formally
- formerly in charge of operations

Former, latter

Use former when referring to the first of two items mentioned. Do not use it to refer to the first of three or more items.

Use latter when referring to the last of two items mentioned. Do not use it to refer to the last of three or more items.

SAY: When Smith, Jones, and Davis objected, Smith spoke for the group.

DO NOT SAY: When Smith, Jones, and Davis objected, the former spoke for the group.
When Smith, Jones, and Davis objected, Davis resigned. DO NOT SAY: When Smith, Jones, and Davis objected, the latter resigned. SAY: When Davis resigned, he was replaced by the treasurer. DO NOT SAY: When Davis resigned, the latter was replaced by the treasurer.

**formulate, form, devise**
Formulate is a wordy substitute for form or devise. Limit formulate to scientific settings.

SAY: form an opinion
DO NOT SAY: formulate an opinion

**for the purpose of, to**
This phrase should be replaced by to whenever possible.

SAY: came to negotiate
DO NOT SAY: came for the purpose of negotiation

**for the reason that**
This phrase should be replaced by because whenever possible.

SAY: rejected because the report contained errors
DO NOT SAY: rejected for the reason that the report contained errors

**for your information**
This phrase adds nothing. Do not use it.

**freak, freakish**
These words refer to what is highly unusual or abnormal. Freak is a noun, freakish is an adjective. Do not use freak as an adjective.

Examples:
- a freak of nature
- a freakish occurrence (not a freak occurrence)

**free gift, free pass, for free**
By definition, gifts and passes are free. Free is redundant in such phrases. The word “for” is also unnecessary in the phrase for free.

SAY: a gift of wine; a pass to the game; given to him free
DO NOT SAY: a free gift of wine; a free pass to the game; given to him for free

**future plan, plan ahead, advance plans**
The word future usually adds nothing since most plans are for a later period. The same is true of the word ahead in the phrase plan ahead, and the word advance in the phrase advance plans.

**g**

**garnish, garnishee**
Both words are verbs meaning to attach a debtor’s property in the possession of another. Garnishee is also a noun meaning the debtor against whom garnishment has been sought. Another meaning of garnish is to embellish, to add something for flavor or color.

Examples:
- garnish his wages
- garnishee his wages
- the garnishee lost his job
- garnish the salad

**gauge, gage**
Both words mean a standard or an instrument of measurement, but the preferred spelling is gauge. A less common meaning of gage is a challenge or pledge.

Example:
- pressure gauge

**general consensus, general public**
These are redundant phrases since consensus and public already incorporate the concept of general.

**get, got, gotten**
Get means to acquire, to reach, to become, etc. Although this verb can be acceptable in formal writing, you should consider using alternative language for simplicity and precision.

SAY: was arrested; must go; dressed for the trip; I have a headache; seek revenge; I must finish; we obtained the funds
DO NOT SAY: got arrested; got to go; get dressed for the trip; I’ve got a headache; get back at him; I have got to finish; we have gotten the funds

There are times, however, when get seems more natural than substitutes.

COMPARE: get up in the morning; get a book
WITH: arise in the morning; obtain a book

**glance, glimpse**
A glance is a brief look. A glimpse is a brief, incomplete, or partial look.

Examples:
- a glance at her watch
- a glimpse of the president in the car
**good, well**

*Good* is an adjective. Use it before nouns and with linking verbs such as be, seem, taste, appear, look.

Examples:
- a good response
- the chances look good.

*Well* is an adverb and an adjective. As an adjective, it refers to a person's health.

Examples:
- spoke well (adverb)
- feel well (adjective)

In the last example (feel well), if you were referring to the sense of touch rather than to health, *well* would be an adverb.

**graduated from, was graduated from**

The institution does the graduating, not the student. Hence the traditional view is that the passive form (*was graduated from*) is needed. Today, however, both forms are acceptable. Be sure to include the preposition from.

Examples:
- she graduated from Duke
- she was graduated from Duke

**grievous, grievous**

There is no such word as *grievious*. It is a common misspelling of *grievous*.

Example:
- grievous crime

**grisly, grizzly**

*Grisly* means gruesome. *Grizzly* means gray.

Examples:
- a grisly crime
- a grizzly bear

**H**

**half, a half a**

Avoid using the phrase *a half a* or *a half an*.

- SAY: a half hour
- DO NOT SAY: a half an hour

**happen, transpire, occur, take place**

For an accidental or chance event, use *occur* or *happen*; for a planned event, use *take place*.

Examples:
- the accident happened at noon
- the hearing will take place at noon

*Transpire* means to become known or to leak out. Do not use it to mean "to happen" or "to take place."

SAY: they were surprised by what transpired at the scene

**healthful, healthy**

*Healthful* means conducive to health. *Healthy* means possessing good health.

Examples:
- exercise is healthful
- John is healthy

**herein, hereto, herewith**

Avoid using these words. They are too formal and often redundant.

- SAY: discussed in this letter
- DO NOT SAY: discussed herein

**here is, here are**

*Here* takes a singular or plural verb depending on the noun that follows the verb.

Examples:
- here is the law library
- here are the law libraries
- here are Harvard and Yale

**hitherto**

Use a less cumbersome substitute whenever possible.

- SAY: previously unknown
- DO NOT SAY: hitherto unknown

**hoard, horde**

*Hoard* means a hidden supply of something. *Horde* means a large number of something.

Examples:
- a hoard of food
- a horde of shoppers

**hopefully**

Strict grammarians object to the use of this word to mean "it is hoped" or "if all goes well." Use it only when you mean "in a hopeful manner."

- SAY: I hope the court's decision will resolve the matter
- DO NOT SAY: hopefully, the court's decision will resolve the matter

**however, but however**

Avoid using *however* to start a sentence when you mean "nevertheless" or "yet." The phrase *but however* is redundant. Use one of these words, not both. Use a semicolon before *however* when it begins the second independent clause in a sentence.

Example:
- The lawyers are ready; however, the court is not.
identical with, identical to
Identical with is preferred.
Example:
• your signature is identical with the one on the document

identify with
Use the reflexive pronoun with this phrase.
SAY: she identified herself with the character
DO NOT SAY: she identified with the character

if, whether
Whether is preferable to if when introducing a clause that refers to alternatives.
SAY: let me know whether you can attend
DO NOT SAY: let me know if you can attend
Note the ambiguity of the if clause. If the person cannot attend, there is no need to let you know. The whether clause makes it clear that you want to know either way.

if not
Avoid this phrase when it is not clear what you mean. The danger is that what follows if not may be incorrectly interpreted negatively.
SAY: the busiest and (or and probably) the most honest judge
DO NOT SAY: the busiest, if not the most honest, judge (this sentence suggests that the judge is not honest)

if . . . then
Omit then when it adds nothing.
SAY: if he loses, he will resign
DO NOT SAY: if he loses, then he will resign

illegible, unreadable, legible, readable
Illegible and unreadable both mean difficult to read. Unreadable has the additional meaning of dull. Similarly, legible and readable mean capable of being read. Readable has the additional meaning of interesting.

impact, affect
As a verb, affect is preferable to impact.
SAY: the rule affects everyone
DO NOT SAY: the rule impacts everyone

impeach, remove, dismiss
Someone who is impeached is not removed or dismissed. Impeach simply means accuse, attack, or discredit.

Examples:
• a president is impeached when accused of high crimes and misdemeanors by the House
• a president is removed from office when tried and convicted by the Senate

impervious, oblivious, forgetful
Impervious means incapable of being affected; impenetrable. Oblivious means lacking memory, and being unaware. Forgetful means not remembering due to a problem or defect of memory.
Examples:
• impervious to criticism
• oblivious of the passage of time
• forgetful as ever, he missed the appointment

imply, infer
Imply means to signal or to hint at a meaning. Infer means to deduce something from the signal or the hint. It is the writer or speaker who implies. It is the reader or listener who infers.
Examples:
• the director implied she was dissatisfied with the report
• the staff inferred that the director wanted the report changed

impractical, practical, impracticable, practicable
Impractical means not prudent or sensible. Practical means wise or realistic. Impracticable means not capable of being carried out. Practicable means feasible, capable of being done.
Example:
• to read a book in a day may be practicable because you have done it before, but impractical because of other things you must do today

impudent, impertinent, imprudent
Impudent means brash and disrespectful. Impertinent is less strong. It means impolite, in bad taste. Imprudent means unwise.
Examples:
• they were shocked by her impudent criticism
• an impertinent question; an imprudent purchase

in, at
Both words refer to a location. Use at when the focus is on a specific location. Use in when the focus is on more general boundaries.
Examples:
• I live in the Northeast
• I work at Smith, Jones & Jackson
in, into
In means inside of, within an area or space. Into has the same meaning, but is used with motion or action verbs.

Examples:
• the file is in her briefcase
• she went into the court

in advance of, prior to, before
Before is preferable to in advance of and prior to.
SAY: compliance before the hearing
DO NOT SAY: compliance in advance of the hearing

in a position to
Avoid using this wordy phrase.
SAY: we cannot accept the offer
DO NOT SAY: we are not in a position to accept the offer

in connection with, about, on
When you mean about or on, do not use this awkward phrase.
SAY: the Center prepared a report on the accident
DO NOT SAY: the Center prepared a report in connection with the accident

incredible, incredulous
Incredible means implausible, not to be believed. Incredulous means skeptical, showing disbelief.

Examples:
• he told an incredible story
• we were incredulous of his story

indefinitely, forever
Indefinitely means “having no precise limits or boundaries.” This is not the same as “a very long time.”
When you mean the latter, use a word such as forever.

Examples:
• a job that could end tomorrow or in twenty years is a job that will last indefinitely
• housework is a job that lasts forever

indicate, say, said, remark; state; insist
(see also allege)
Say and said are preferred over more formal substitutes (e.g., indicate, remark) that do little more than provide variation for the sake of variation.

SAY: he said that he wanted the position; she would not say if the product was available
DO NOT SAY: he remarked that he wanted the position; she would not indicate if the product was available

State is properly used when making a formal, full, or detailed declaration.

Example:
• for the record, he stated that he wanted to withdraw

Insist is properly used when someone is being very firm in a position.

Example:
• she insisted that she did not receive the funds

individual, person
Do not indiscriminately substitute individual (as a noun) for person. Say individual when you are emphasizing one from the group.

Examples:
• an unknown person came forward
• no one doubted the right of an individual to dissent from the party position

infect, afflict
Infect means to cause something burdensome to be endured. Afflict means to cause distress and suffering, to make miserable.

Examples:
• infect extra work on them
• afflicted with the disease

informant, informer
These words are interchangeable.

in length, in size, in number
Omit these phrases if they are redundant.

SAY: from top to bottom, the wall is eleven feet; the handle is small; he bought ten
DO NOT SAY: from top to bottom, the wall is eleven feet in length; the handle is small in size; he bought ten in number

in order to, in order that
These phrases often add nothing to a sentence.

SAY: file the pleading to state the case; delivered early so that they could prepare
DO NOT SAY: file the pleading in order to start the case; delivered early in order that they could prepare

input
Avoid using this word except when discussing science or computers.

SAY: your valuable participation in preparing the speech
DO NOT SAY: your valuable input in preparing the speech
in receipt of, received
Received is preferable to the awkward, in receipt of
SAY: we have received your application
DO NOT SAY: we are in receipt of your application

inside of, inside, outside of, outside
Omit of:
SAY: fell inside the elevator; the property outside city limits
DO NOT SAY: fell inside of the elevator; the property outside city limits

insoluble, insolvable, unsolvable
Insoluble means incapable of being dissolved.
Insolvable and unsolvable mean incapable of being solved.
Examples:
• insoluble substance
• insolvable crime

in spite of the fact that, although
Although is preferable to the wordy, in spite phrase.
SAY: he went although he protested
DO NOT SAY: he went in spite of the fact that he protested

instantaneously, instantly
Instantaneously means without perceptible delay.
Instantly means at once.
Examples:
• he responded instantaneously
• he died instantly

instinct, intuition
Instinct means unlearned behavior. Intuition means knowledge gained outside the normal process.
Examples:
• an instinct for survival
• an intuition that she was not being told everything

intentional, voluntary, unintentional, involuntary
An intentional act is one done with a particular intention, or one done deliberately. An unintentional act is one done without a certain intention, or not done deliberately. Conduct is voluntary or involuntary depending on whether it is the product of a free will.
Examples:
• his contact with her body was intentional
• his driving into the wall was unintentional
• his denunciation of his country was voluntary
• his sneeze was involuntary

interment, internment
Interment means burial. Internment means imprisonment or confinement.
Examples:
• interment will be on Monday morning
• internment of those captured

in terms of
Avoid using this phrase when it adds nothing.
SAY: there was confusion about the amount
DO NOT SAY: there was confusion in terms of the amount

interpersonal, personal
Avoid using interpersonal if you mean nothing more than personal.
SAY: personal relationships
DO NOT SAY: interpersonal relationships

interrelationship, relationship
Avoid interrelationship if you mean nothing more than relationship.
SAY: relationship between the two countries
DO NOT SAY: interrelationship between the two countries

in that, since
Since is preferable to in that.
SAY: they accepted the offer since the terms were sufficient
DO NOT SAY: they accepted the offer in that the terms were sufficient

in the event that, if
Avoid using the first phrase when if is adequate.
SAY: if you succeed
DO NOT SAY: in the event that you succeed

in the immediate vicinity of, near
Avoid using this phrase when all you mean is near.
SAY: the accident occurred near the school
DO NOT SAY: the accident occurred in the immediate vicinity of the school

in the light of
Avoid this cliché. If you use it, do not say in light of.
The the must be included.

into, in to (see also in, into)
Into and in to are distinct. Compare the following:
Examples:
• she went into the court
• she went in to obtain the file
invariably, frequently
Invariably means not changing, constant. It does not mean often or frequently.
Examples:
• he is invariably late (if you mean there has never been a time when he was not late)
• he is frequently late (if you mean he is often late)

invited guest
The word invited is redundant, since guest means one who is invited.

in which
Omit this phrase if it adds nothing.
SAY: the courteous way she was treated
DO NOT SAY: the courteous way in which she was treated

its, it’s
It’s is a contraction for “it is.” For the possessive, say its, never it’s. If you cannot substitute “it is” for it’s, do not use the latter.
SAY: it’s contagious; its product
DO NOT SAY: its contagious; it’s product
Even when correctly used, contractions should be limited to speaking. In formal writing, say “it is.”
Example:
• it is contagious

I wish to state that
Avoid using this verbose phrase.
SAY: the report is inadequate
DO NOT SAY: I wish to state that the report is inadequate

J
join together
The phrase is redundant. Drop the together (even though the Bible cautions us not to put asunder what has been divinely “joined together.”)
SAY: join the two factions
DO NOT SAY: join the two factions together

judicial, judicious
Judicial mean pertaining to the courts. Judicious means demonstrating wise judgment.
Examples:
• the volume contains judicial opinions
• a judicious choice

jurist, judge, justice
Jurist does not mean judge. A jurist is someone skilled or versed in the law. This can include more than judges. The distinction between judge and justice depends on local custom. Members of the highest court in a judicial system are often called justices; others in that system, judges.

K
knot
Knot is a nautical unit of speed. Do not add “per hour.”
SAY: traveled twenty knots
DO NOT SAY: traveled twenty knots per hour

know-how
Avoid using this word in formal writing.
SAY: reputation for competence in management
DO NOT SAY: reputation for management know-how

L
laceration, cut
Laceration is a pompous way of referring to a cut.

last, final, most recent
Avoid ambiguity in the word last (e.g., the last case he tried). Do you mean the last case of his career (there were no more)? If so, say final or add language to make this clear.
Examples:
• the last case he tried before he resigned
If you mean the most recent case that he tried (more are expected):
• the latest case he tried
• the most recent case he tried

lay, lie
Lay means to place; it must have an object. Lie means to rest or recline; it does not take an object.
Examples:
• lay the pen on the desk
• lie on the couch.
Do not confuse the principal parts of these two verbs.
Examples:
• laid a pen on the desk
• caught laying the pen in his pocket
• I lay there for two hours
• I have lain there for hours
• lying in bed
Lie also means to communicate a falsehood intentionally. The principal parts of this verb are lie, lied, lied.

lead, led, misled, mislead
Lead means to show the way, to head. Led is the past tense and past participle of lead. Avoid the error of
thinking that the past tense and past participle of lead is lead.
SAY: the evidence led him to the conclusion
DO NOT SAY: the evidence lead him to the conclusion
A similar confusion can exist with the verb forms mislead, misled.

let's, let us
Avoid the contraction let's in formal writing.
SAY: let us continue
DO NOT SAY: let's continue

lighted, lit
Both of these words are acceptable as the past tense and past participle of light.
Examples:
• lighted the cigarette
• lit the cigarette

lightening, lightning
Lightening means making something lighter or less heavy. Lightning means a flash in the sky.
Examples:
• lightening of the load
• fear of lightning

likely very likely, quite likely
When used as an adverb to mean probably, likely should be preceded by very, quite, and similar words.
SAY: the jury will very likely find for the plaintiff
DO NOT SAY: the jury will likely find for the plaintiff

loath, loathe
Loath means reluctant or unwilling. Loathe means to detest.
Examples:
• she is loath to accept the position
• she loathes the very idea of taking the position

loose, lose
Loose (as an adjective) means not fastened. Lose means to be unable to find, to be deprived of.
Examples:
• a loose fitting
• lose the case

loud, loudly
Use loud as an adjective (a loud noise) not as an adverb. The adverb is loudly.
SAY: speak loudly
DO NOT SAY: speak loud

M

major, principal, chief
Use major to mean important or significant only when it is clear that you are making a comparative statement or are viewing an event, object, or concept in relation to something else.
Example:
• a major announcement (as opposed to all other announcements). Even when correctly used, major is overused. Consider alternatives such as principal, chief, etc.

majority, most of
Use majority when you are specifically comparing the majority with the minority. If you are simply referring to the larger number, most of is preferable.
SAY: most of the agents approved
DO NOT SAY: the majority of the agents approved (unless you specifically mean more than 50%)

majority, plurality
Majority means more than half. Plurality means the largest number, but still less than half. Assume there are seven justices on the bench. In a case, three justices write an opinion together, two others write a separate opinion, one justice writes an opinion by herself, and the seventh justice does not participate. There is no majority opinion, since more than half of the justices (i.e., four or more) did not join together. The opinion in which the three justices joined is the plurality opinion. In an election, plurality also means the number by which the winner exceeds the votes for his or her nearest rival.

male, man, boy, masculine
Use male only in scientific or research contexts. Otherwise, use man, boy, or masculine.

manner
Replace manner with an adverb when possible.
SAY: written clearly; spoken forcefully
DO NOT SAY: written in a clear manner; spoken in a forceful manner

marital, martial
Marital means pertaining to marriage. Martial means pertaining to the armed forces or war.
Examples:
• marital discord
• martial law

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materialize, happen, appear, take place

Materialize means to take a real form, to cause to become actual. Do not use it to mean happen, appear, or take place.

SAY: goals that did not materialize
DO NOT SAY: the event materialized at noon

maybe, may be

Maybe is an adverb; may be is a verb phrase.

Examples:
• maybe the verdict will be favorable
• it may be that the verdict is favorable

media, medium, mediums

Media is the preferred plural of medium. While mediums is also acceptable, medias never is. Media takes a plural verb.

SAY: all the media are waiting for the interview;
TV is a mass medium
DO NOT SAY: all the media is waiting for the interview; TV is a mass media

meretricious, meritorious

Meretricious means involving vulgarity, insincerity, or unlawful sexual relations. Meritorious means having merit, deserving serious judicial inquiry, or going to the heart or essence of the case.

Examples:
• a meretricious relationship
• a meritorious defense

moot

In the law, moot means no real controversy.

Example: the question is moot because the company has already received what it wanted
The word also means subject to debate or pertaining to debate.

Example:
• moot court

more importantly, more important

The ly is unnecessary. Say more important.

more preferable, preferable

This phrase is redundant. Say preferable.

more than one

This phrase is singular and takes a singular verb.

Example:
• more than one lawyer is present

mutual, common

The focus of mutual is the relationship with or between things. The focus of common is the relationship shared with a group.

Examples:
• mutual respect between the rivals
• the common concerns of the delegates

mutual cooperation

This phrase is redundant. Drop mutual.

nature

Avoid nature when you mean kind, type, or sort. In its place be specific about what you mean.

SAY: the settlement is troublesome because of its failure to resolve every issue
DO NOT SAY: the nature of the settlement is troublesome

necessaries, necessities

Both words mean that which is necessary. Use necessaries when referring to what is needed to sustain human life at a certain standard of living.

needless to say

Avoid using this phrase. If what follows this phrase was really needless to say, you would not have said it.

none, not one

None takes a singular verb if it goes with a singular noun. None takes a plural verb if it goes with a plural noun, unless you want to emphasize not one.

Examples:
• none of the prior hostility was evident
• none of the applicants were present
• none of the applicants was present (if you wanted to stress that “not one” of the applicants was present)

no question but that

Omit the but in this phrase.

not

Avoid the ambiguous use of this word.

Example:
• all lawyers are not competent
Do you mean that all lawyers are incompetent? Or do you mean that not all lawyers are competent? Change the sentence to say what you mean.

not only . . . but also

Follow the rules of parallelism when you use this construction. Be sure that what follows not only is of the same grammatical construction as what follows but also.

SAY: the judge not only revoked the sale but also suspended the license
DO NOT SAY: the judge not only revoked the sale but also the license was subjected to suspension. 
EVEN BETTER: the judge revoked the sale and suspended the license.

**noxious, obnoxious**

Noxious means harmful to your health or morals. Use obnoxious when you mean disagreeable or offensive.

Example:
- noxious gas
- obnoxious conduct

**number**

The word number takes a plural verb when preceded by “a” and a singular verb when preceded by “the.”

Example:
- a number of lawyers are available
- the number of Ohio lawyers is decreasing

**official, officious**

Official means authoritative, pertaining to an office. Officious means meddlesome, volunteering when not asked.

Example:
- an official answer
- an officious clerk

**on, upon**

Whenever possible, say on, not upon.

Example:
- there are few things on which they agreed
- there are few things upon which they agreed

**one, one’s**

Avoid the stilted use of one as a substitute for a personal pronoun.

Example:
- The property must be maintained; you should take care of your property; I must take care of my property; we must take care of our property.
- one must take care of one’s property

**one of those . . . who**

This construction takes a plural verb when who refers to a plural.

Example:
- he is one of those judges who is upset (plural verb because “who” refers to a plural noun, judges)

When, however, you add “the only,” who clearly refers to the singular “one” and takes a singular verb.

Example:
- he is the only one of those judges who is upset (singular verb because “who” refers to the singular “one”)

**ontime, one-time**

Onetime means former. One-time means only once.

Example:
- a onetime judge
- a one-time chance to win

**only**

To avoid confusion, place only as close as possible to the word it modifies.

Example:
- the confusion can only be alleviated by a change in policy (if you mean that the confusion cannot be corrected entirely)
- the confusion can be alleviated only by a change in policy (if you mean that the confusion can be alleviated but there is just one way to do it—by a change in policy)

**on the basis of**

Rewrite to avoid using this vague phrase.

Example:
- the person who earned the most points won
- the decision was made on the basis of points earned

**on the part of**

Avoid using this wordy phrase.

Example:
- discontent among the workers
- discontent on the part of the workers

**opaque, transparent**

Something is opaque if you cannot see through it, transparent if you can.

**ophthalmologist, optician, optometrist, oculist**

An ophthalmologist is a doctor who specializes in eye diseases. An optician is one who makes and sells eyeglasses, usually not a doctor. An optometrist is a non-doctor who can test for some eye defects and prescribe lenses. Another word for ophthalmologist is oculist.

**optimistic, pessimistic**

Avoid using optimistic to refer to specific events. Use it to convey a general sense of looking at things in their best light.

Example:
- an optimistic attitude
- an optimistic sign

When referring to specifics.

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The same is true of *pessimistic*; apply it to a general outlook that the worst will probably happen. When referring to specifics, say ominous, discouraging, etc.

**ordinance, ordnance**

Ordinance means a law passed by a city or county government, usually the local legislature. Ordinance means military weapons or the weapons division of the military.

**orient, orientate**

These words have the same meaning. Orient is preferred.

**other than, except**

Avoid using this phrase when except is adequate.

SAY: all counts were dismissed except the third
DO NOT SAY: all counts were dismissed other than the third overall
Avoid using this vague, overused word whenever possible. Consider alternatives such as total, general, aggregate, average, comprehensive, whole, complete.

SAY: the complete plan; the comprehensive plan
DO NOT SAY: the overall plan

**over with**

The with is redundant.

SAY: the case is over
DO NOT SAY: the case is over with
EVEN BETTER: the case is finished; the case is completed

**P**

**paid, payed**

The past tense and past participle of pay is paid. Payed is mainly a nautical term.

**panacea**

A panacea is a remedy of all diseases or difficulties. Do not use it to refer to one disease or difficulty.

**parameter, perimeter**

Parameter is a scientific word meaning an arbitrary constant or variable. Do not use it to mean boundary, limit, range, or scope.

SAY: stay within the limits of the budget
DO NOT SAY: stay within the parameters of the budget
Perimeter means boundary, or the outer limits of an area.

Example:
• the perimeter of the field

**partially, partly**

When the emphasis is on a part of an object, use partly.
When you mean “to a certain degree,” use partially.

Examples:
• she is partially dependent on her uncle for support
• the memo is partly done

**particular**

This word often adds nothing to the sentence.

SAY: he was unable to attend at this time
DO NOT SAY: he was unable to attend at this particular time

**party, person**

Other than in a legal context, do not refer to a person as a party.

SAY: they took the wounded person to the hospital
DO NOT SAY: they took the wounded party to the hospital

**past history, past experience**

The word “past” is redundant in these phrases.

**peaceful, peaceable**

Peaceful means undisturbed. Peaceable means inclined toward or promoting peace.

Examples:
• a peaceful setting
• a peaceable way to resolve the dispute

**pendant, pendent**

Pendant, a noun, means something that hangs. Pendent, an adjective, means hanging or suspended.

Examples:
• a pendant around her neck
• pendent jurisdiction

**people, persons**

Use people when referring to a large number. Use persons when referring to relatively few, or when referring to them as individuals.

Examples:
• the people in the stadium
• the persons arrested

**percent, per cent**

The preferred spelling is percent. It takes a singular verb if the number is singular and a plural verb if the number is plural.

Examples:
• ten percent of the brief is done
• ten percent of the cases are frivolous

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period of
Omit this phrase if it adds nothing to the sentence.
SAY: he kept a record for two months
DO NOT SAY: he kept a record for a period of two months

per se
This phrase per se means in itself, by itself, intrinsically. Unless you are referring to a specific legal doctrine (e.g., libelous per se), do not use this phrase in your writing. It usually adds little more than pomposity.

personal, personally
Avoid using these words if they add nothing to the meaning of the sentence.
Examples:
• a personal friend (as opposed to what other kind of friend?)
• she attended personally (how else could she attend?)
• personally, I disagree (how else could you disagree?)

phenomenon, phenomena
Unless you are referring to a perceptible event that is remarkable or impressive in some way, avoid calling it a phenomenon. The preferred plural of phenomenon is phenomena, not phenomenons.

plane, plain
Plane means a level of development or achievement. Plain means clear, simple, undecorated.
Examples:
• research on a sophisticated plane
• the plain meaning rule

plans and specifications, plans
Unless you are making a clear distinction between that which is a "plan" and that which is a "specification," this phrase is redundant. Say plans.

plus
Do not use plus to connect main clauses.
SAY: he failed the course and he left the city
DO NOT SAY: he failed the course plus he left the city
Plus takes a singular verb unless the subject is plural. Plus is a preposition, not a conjunction. It does not affect the number of the verb.
Examples:
• ten plus ten is twenty
• their objections plus the error are recorded

point of view, viewpoint, standpoint
Whenever possible, try to find substitutes for these words.
SAY: he stated his views
DO NOT SAY: he stated his viewpoint

population, populace
Population means the people, the number of persons in a certain group or territory. Populace means the common people.
Examples:
• the male population of the town
• a land reform program acceptable to the populace

possess, have, has, own
Unless you are referring to a legal doctrine, use simpler words such as have, has, and own.
SAY: he has a sense of humor
DO NOT SAY: he possesses a sense of humor

practically, virtually
Practically means in a practical manner, and in all important respects. Do not use it to mean “almost.” Virtually means in fact, although not formally.
Examples:
• practically exonerated
• virtually extinct

precedence, precedent
Precedence means going before, having priority. Precedent means something that happened in the past that can be helpful in similar situations in the future.
Examples:
• whoever files first has precedence
• the 1943 case is a clear precedent

precipitate, precipitous
Precipitate means happening suddenly and often carelessly. Precipitous means very steep.
Examples:
• he cautioned against precipitate action
• a precipitous climb

premises
This word premises has two meanings: (a) propositions supporting a conclusion, and (b) land and the buildings on it. In both senses, premises takes a plural verb.
Examples:
• she claims that faulty premises are in the analysis
• the premises are vacant
prepared
Prepared is not a substitute for “willing” or “ready.”
SAY: he is not ready to acknowledge defeat
DO NOT SAY: he is not prepared to acknowledge defeat

prescribe, proscribe
Prescribe means to provide rules or guidelines, and to recommend. Proscribe means to prohibit.
Examples:
• she prescribed medication
• the court proscribed picketing

presentiment, presentment
Presentiment means a premonition. A presentment is an accusation of crime initiated by a grand jury based on its own knowledge. It also means giving or producing a negotiable instrument to the drawee for its acceptance, or to the drawer or acceptor for payment.

present incumbent
The word present is redundant.

previous to, prior to, before
Before is preferable to either phrase.
SAY: she held the position before 1989
DO NOT SAY: she held the position previous to 1989, or she held the position prior to 1989

principal, principle
Principal means the most important (adjective), the head of a school (noun), and money on which interest is earned (noun). Principle means a basic truth (noun).
Examples:
• her principal argument in the brief
• the principle of cause and effect

private industry
The word private is redundant.

pseudo, quasi
Pseudo means false. Quasi means resembling, to some degree.
Examples:
• pseudo doctor
• quasi-legislation

question of whether, question as to whether, question arises as to whether, question is whether
Pare down these phrases whenever possible.
SAY: The question is whether the contract is void
DO NOT SAY: The question arises as to whether the contract is void
EVEN BETTER: Is the contract void?

quote, quotation
Use quote as a verb when repeating someone else’s words exactly as written or spoken. Do not use quote as a noun. Say quotation instead.

R
raise, rise
Raise takes an object; rise does not.
Examples:
• raise the price
• production costs rise

rarely ever, seldom ever, rarely if ever, seldom if ever
The word ever in these phrases is redundant.
SAY: she rarely attends; he seldom participates
DO NOT SAY: she rarely ever attends; he seldom ever participates
The following constructions, however, are proper: rarely if ever and seldom if ever.

rational, rationale
Rational (an adjective) means reasonable or logical. Rationale (a noun) means the reason or explanation for something.
Examples:
• a rational plan to solve the problem
• the rationale of the court’s decision

reason why
In place of this phrase, say “reason that,” “reason,” “because,” etc.
SAY: laziness is the reason he failed
DO NOT SAY: laziness is the reason why he failed
EVEN BETTER: he failed because of his laziness

rebellion, revolt, revolution, riot
A rebellion is an organized uprising designed to overthrow the government (it usually fails; if it succeeds, it is a revolution). A revolt is extensive opposition to a custom, law, authority, or government. A revolution is the overthrow of a government and the substitution of a new government. A riot is a sudden violent disruption of public order.
** rebut, refute, deny**
To rebut a charge is to counter it by offering opposing evidence or arguments. To refute a charge is to counter it by offering other evidence that proves it is wrong. To deny a charge is simply to say that it is wrong.

Examples:
- she rebutted Bill’s claim that she was lazy by staying late that night to finish the report
- she refuted the claim that she did not pay for the item by producing the sales receipt for it
- she denied that she was late

**recipient**
Received is preferable to recipient.

SAY: she received a raise
DO NOT SAY: she was the recipient of a raise

**refer back**
The word back is usually redundant, even when you are discussing something that is earlier or comes before.

SAY: refer to chapter one
DO NOT SAY: refer back to chapter one

**relate**
Do not use relate to mean to have rapport with.

SAY: John and Fred work well together
DO NOT SAY: John and Fred relate well together

**relevant, irrelevant**
These words mean pertinent or not pertinent to something specific. Adding the word “to” often makes this relationship clear. When you call something relevant or irrelevant, your reader should not have to ask, “to what?”

SAY: the training is irrelevant to my current job
DO NOT SAY: the training is irrelevant

**remediable, remedial**
Remediable means that which can be corrected. Remedial means providing a remedy.

Examples:
- the mistake is remediable
- a remedial statute

**replica, model, miniature**
Replica is a copy or reproduction of the original made by the original artist. Do not use replica to mean model or miniature.

SAY: he built a model of the White House to scale
DO NOT SAY: he built a replica of the White House to scale

**represent**
Represent means “stands for.” Do not use it as a substitute for “is.”

SAY: this paycheck is the amount he received
DO NOT SAY: this paycheck represents the amount he received

**resume, résumé**
Resume means to begin again. Résumé (note the accents) means a summary of past employment, education, etc.

**rightly, rightfully**
Rightly means correctly or accurately. Rightfully means morally, properly, or fairly.

Examples:
- he rightly concluded that the document is missing
- he rightfully claimed that he owned the document

**rob**
Persons and places are robbed; things are not.

Examples:
- rob a stranger
- rob a bank
- steal the money

**rules and regulations**
Do not use this phrase unless you are sure that there is a clear distinction between a rule and a regulation. Often there is no such distinction.

**S**

**Sabbath**
Sabbath is not a synonym for Sunday. For Jews, the Sabbath is Saturday.

**said**
Do not use said as an adjective to mean aforementioned.

SAY: this buyer; the XYZ Company
DO NOT SAY: the said buyer; the said company

**sanction**
Depending on context, sanction can mean permission or penalty.

Examples:
- they went on the trip after it received the sanction of the board
- there are sanctions for the offense in the statute

**savings**
With the article “a,” do not use the plural, savings.

SAY: a saving of hundreds of dollars
DO NOT SAY: a savings of hundreds of dollars
scan
Avoid using scan unless you are referring to documents that are fed into a scanner. Otherwise, it may not be clear which of the following two equally acceptable meanings you intend: to read very carefully, or to look over quickly.

seasonable, seasonal
Seasonable means within the agreed time, or appropriate to the season. Seasonal means that which depends on or is controlled by the seasons.
Examples:
• seasonable acceptance of the offer
• seasonable rain
• seasonal employment

secular, sectarian
Secular means nonspiritual, worldly. Sectarian means pertaining to a particular religion or sect.
Examples:
• secular music
• sectarian education

sensual, sensuous
Both words mean pertaining to the senses. Sensual is often used in a physical or sexual context. Sensuous is often used in an aesthetic context.
Examples:
• a sensual dress
• a sensuous painting

sentiment, sentimentality
Both words refer to emotions or feelings. A sentiment is often sincere, while sentimentality is often affected or excessive.

serve, service
As a verb, the primary meaning of service is to maintain and keep repaired.
Example:
• service the computer
Do not use service to mean give services to, or to provide a general benefit. Instead, use serve.
SAY: the company serves the county
DO NOT SAY: the company services the county
Two exceptions are debts (debts can be serviced) and breeding animals (animals can be serviced).

sic [sic]
Use sic in brackets [sic] to indicate that any errors in a quotation are in the original and hence are not copying mistakes of yours.
Example:
• “the wound did not heel [sic] in time”
simplistic, simplified
Simplistic means oversimplified. It does not mean simple. It also is not the same as simplified, which means made less complex.
Examples:
• a simplistic plan is naive; a simple plan can be very profound and effective
• a simplified version of a plan may be so general that it is now simplistic

slow, slowly
Slow is primarily an adjective, but it can function as an adverb. Nevertheless, when you need an adverb, slowly is preferred.
SAY: drive slowly
DO NOT SAY: drive slow

specie, species
Specie means coined money. Species means a category or classification. The spelling is the same for the singular and the plural—species.
Examples:
• payment in specie
• this species is prevalent in Peru

stationary, stationery
Stationary means standing still. Stationery means writing paper.
Examples:
• a stationary object
• a stationery store

stimulant, stimulus
A stimulant is a temporary arousal or acceleration of activity. (The plural is stimulants.) A stimulus is anything that causes a response. (The plural is stimuli.)
Examples:
• the drug acted as a stimulant so that she could stay awake
• the stimulus of the rivalry

straight, strait
Straight means not curved. Strait means a water passage.
Examples:
• a straight line
• travel through the strait

strategy, tactics
Strategy is the overall plan to achieve a particular goal. Tactics are the means to implement the strategy.
A strategy is a plan. A tactic is a technique.
Examples:
• a conference to prepare strategy for the case
• military tactics
**structure**
As a verb, this word is often used pretentiously.
- SAY: create a place to work
- DO NOT SAY: structure an environment for work

**subsequent, subsequently, later**
Later is preferable to either one of these words.
- SAY: a later development; later, she resigned
- DO NOT SAY: a subsequent development; subsequently, she resigned

**subsequent to, after**
After is preferable.
- SAY: he resigned after the release of the report
- DO NOT SAY: he resigned subsequent to the release of the report

**suffer from**
When you have a sickness or illness, you suffer from it, not with it.
- SAY: suffer from tuberculosis
- DO NOT SAY: suffer with tuberculosis

**supra**
Avoid supra to refer the reader to previously cited material. It is often cumbersome for the reader to go back to find the previous cite. Either repeat the full cite or give the cite in abbreviated form.

**T**
**take delivery, receive**
A needlessly technical way to say receive.
- SAY: expected to receive the goods on Tuesday
- DO NOT SAY: expected to take delivery of the goods on Tuesday

**target, goal, purpose, objective**
Target means something you aim or fire at.
- Examples:
  - an easy target
  - the target of criticism
It is overused in the sense of goal, purpose, or objective.
- SAY: the goal of the program is to eliminate illiteracy
- DO NOT SAY: the target of the program is to eliminate illiteracy

**than**
When than is used in a comparison, complete the sentence in order to determine whether the following pronoun should be nominative or objective.
- Example:
  - she is wiser than I (the objective “I” is used because if you completed the sentence, it would read: “she is wiser than I am”)

Complete the sentence and rewrite it, if necessary, to avoid ambiguity.
- Examples:
  - she likes Paul better than me (the objective “I” is used if you mean: “she likes Paul better than she likes me.” The latter phrasing is clearer.)
  - she likes Paul better than I (the nominative “I” is used if you mean: “she likes Paul better than I like him.” The latter phrasing is clearer.)

**thankfully**
This word means “in a thankful way.” Do not use it to mean “I am grateful that.”
- SAY: we prayed together thankfully
- DO NOT SAY: thankfully, we no longer pray together

**that**
When that is a conjunction, it can be omitted if it is not needed for clarity.
- SAY: the court said he could have an extension
- DO NOT SAY: the court said that he could have an extension
- SAY: the court said that in 1989 we would have to file again
- DO NOT SAY: the court said in 1989 we could have to file again

But, that would be necessary to make clear that the court did not make the statement in 1989. Also do not repeat that needlessly.
- SAY: the manager feels that when the case is over, there is no need to remain
- DO NOT SAY: the manager feels that when the case is over, that there is no need to remain

**that, which**
Use that to begin a restrictive clause. A restrictive clause is also called a limiting or defining clause. It modifies and defines. The meaning of a restrictive clause is essential to the sentence. Do not use commas to set off a restrictive clause.
- Example:
  - the opinion does not apply to sales that are paid by check (the clause is restrictive; it defines a certain category of sales)

Use which to begin a nonrestrictive clause. A nonrestrictive clause is also called a nonlimiting or nondefining clause. It modifies but does not define. It gives additional, nonessential information. The meaning of a restrictive clause is not essential to the sentence. If a clause can be dropped without changing the basic meaning of the sentence, it is a nonrestrictive clause. Commas are used to set off nonrestrictive clauses.
Example:
- the legal profession, which began centuries ago, has many different kinds of lawyers within it (the clause is nonrestrictive; it modifies the profession, but does not define or restrict it)

there
The verb following there should be singular or plural depending on whether the true subject of that verb is singular or plural.
Examples:
- there are many mansions (use the plural verb "are" because the subject, mansions, is plural)
- there is an error in the memo (use the singular verb "is" because the subject, error, is singular)
- there appears to be a flaw (use the singular verb "appears" because the subject, flaw, is singular)

there, their, they’re
Ts is primarily an adverb. Their is the possessive of they. They’re is a contraction of “they are.”
Examples:
- the library is there; their responsibility
- they’re finished
In formal writing use “they are” rather than the contraction they’re.

thereafter, therein, therefrom, wherein
Use less pompous substitutes for these words whenever possible (e.g., after that, then, from then on, in that place, in that way).

thing
Avoid using this word.
SAY: the part of the proposal that he objected to
DO NOT SAY: the thing about the proposal that he objected to

cis
Be sure the reader knows what this refers to. Avoid using this as a general reference to what precedes it.
SAY: I want to enter the health field and to pursue my music education. Both of these goals will take considerable effort.
DO NOT SAY: I want to enter the health field and to pursue my music education. This will take considerable effort.

cis is to inform you that
Avoid using this phrase.
SAY: you are terminated
DO NOT SAY: this is to inform you that you are terminated

though, although
As conjunctions, these words are interchangeable.
Examples:
- although closed to the general public, the theater was opened on holidays
- though closed to the general public, the theater was opened on holidays

thrust
Avoid using thrust when you mean general direction.
SAY: the main theme of the plan
DO NOT SAY: the thrust of the plan

to, too, two
To is a preposition. Too is an adverb. Two is a number.
Examples:
- go to the library
- too difficult; two briefs

tortuous, torturous, tortious
Tortuous means twisting or winding. Torturous means painful. Tortious means pertaining to a tort.
Examples:
- a tortuous street
- a torturous experience
- a tortious interference

total
Eliminate this word when it adds nothing.
SAY: he purchased 233 volumes
DO NOT SAY: he purchased a total of 233 volumes

toward, towards
Both spellings are correct, but toward is preferred.

track, tract
A track is a mark, route, or course of action. A tract is land, a pamphlet, or a verse.
Examples:
- track and field
- the distribution of the tract

transitory, transient
Both words mean for a limited time. Use transitory when the emphasis is short-lived. Use transient when the emphasis is remaining a short time.
Examples:
- transitory pain
- transient guest

treachery, treason
Treachery means any betrayal. Treason means a betrayal of one’s country.
treble, triple
Both words can mean three times or threefold. Unless you are referring to a rule that uses treason (e.g., treason damages), you should use triple.

troubled
People or their faculties are troubled, not things or events.
SAY: troubled conscience
DO NOT SAY: troubled company

type, type of
When you mean kind or sort, you must say type of.
SAY: that type of lawyer
DO NOT SAY: that type lawyer

U
unaware, unawares
Unaware is the adjective. Unawares is the adverb.
Examples:
• unaware of the error
• caught unawares

undersigned
Do not use this word to refer to the signer(s) of a document.

unexceptional, unexceptionable
Unexceptional means usual or normal. Unexceptionable means not subject to objections.
Examples:
• the unexceptional behavior of the animals observed
• unexceptionable title

unilateral, bilateral
Unilateral means involving one side only. Bilateral means involving both sides.
Examples:
• a unilateral concession by Italy
• a bilateral commitment of France and Italy

unsanitary, insanitary
These words are interchangeable. Unsanitary is more common.

unsatisfied, dissatisfied
Unsatisfied means unpaid, and failure to meet standards or expectations. Dissatisfied means disappointed or upset.
Examples:
• unsatisfied judgment
• dissatisfied by your rudeness

use, usage
Use means in operation or service. Usage means customary practice.
Examples:
• the use of the computer
• a former usage among Christians

utilize, use
Use is preferable to the more pompous utilize.
SAY: use the library
DO NOT SAY: utilize the library

V
valuable, valued
Valuable means worth money or of considerable importance. Valued means highly esteemed, whether or not a monetary value is attached.
Examples:
• a valuable ring
• a valued experience

very
This word is frequently overused. Either omit it or find a substitute.
SAY: the assignment is difficult; the assignment is unusually difficult
DO NOT SAY: the assignment is very difficult

viable
This word means able to survive, and also practical. Avoid using the word unless it is very clear to the reader why you are saying something is survivable or practical.
SAY: the proposal is viable because it provides for adequate funding and competent staff
DO NOT SAY: the proposal is viable

virus
A virus is not a disease. It is an agent that causes a disease.
SAY: sick with the measles caused by a virus
DO NOT SAY: sick with a virus

visit, visit with
Say visit not visit with in formal writing.
SAY: visit her neighbor
DO NOT SAY: visit with her neighbor

voiced
This word is often part of wordy phrases that should be avoided.
SAY: he objected to the resolution; she is dissatisfied with the plan
DO NOT SAY: he voiced objections to the resolution; she voiced dissatisfaction with the plan
**W**

**was, were**

To express conditions contrary to fact, use were.

Examples: if I were a judge; if she were elected

*Was* can be used when referring to the simple past that is not necessarily contrary to fact.

Example:

- if she was a member of the bar at the time, she was not in active practice

**well-**

Note the hyphen in the spelling of the following words when they precede the noun they modify:

- well-being
- well-defined
- well-done
- well-founded
- well-thought-of
- well-known
- well-meaning
- well-rounded

**West, East, South, North**

Capitalize these words when referring to a region of the country.

**what**

Generally, you should avoid beginning a sentence with what unless the sentence is a question.

SAY: The weather bothered him.

DO NOT SAY: What bothered him was the weather.

**whereas**

An overused word in the law. Use a substitute when you can.

SAY: the plaintiff withdrew, while the defendant proceeded

DO NOT SAY: the plaintiff withdrew, whereas the defendant proceeded

**wherewithal, means**

Means is preferable.

SAY: the means to survive

DO NOT SAY: the wherewithal to survive

**whether or not**

*Or not* is often redundant when a choice of alternatives is stated or implied. If you remove “or not” and the sentence still conveys the meaning, keep it out.

SAY: we did not know whether to go

DO NOT SAY: we did not know whether or not to go

Or not, however, is sometimes needed.

Example:

- you must leave school whether or not you can afford the tuition

**while**

*While* means “during the time that.”

Example:

- he read while he waited

Do not use *while* to mean but, and, although, or whereas.

SAY: Mary is the attorney in charge and Paul is her assistant

DO NOT SAY: Mary is the attorney in charge while Paul is her assistant

**who, whom (see also that, which)**

Although there are general rules on when to use *who* and *whom*, the rules are often broken because the word *whom* has come into general disfavor.

Use *who* when it stands for the subject.

Examples:

- the lawyer who argued the case (who is the subject of argued)
- the lawyer who I think argued the case (who is still the subject of argued)
- who do you think will win (who is the subject of will win)

Use *whom* when it stands for the object of a verb or preposition.

Examples:

- the judge whom the lawyers hated has resigned (whom is the object of the verb hated)
- to whom will the honor go? (whom is the object of the preposition to)

Widespread usage has produced some exceptions. The following examples are considered correct in spite of the above rules.

- who did you talk to?
- who did you see?

Except when used directly in front of a preposition (e.g., “to whom,” “for whom”) *whom* is generally disfavored.

**who’s, whose**

*Who’s* is the contraction for “who is.” Avoid using contractions in formal writing.

Examples: Who is the officer in charge?

DO NOT SAY: Who’s the officer in charge?

Never use *who’s* as the possessive. The possessive for who and which is *whose*.
SAY: Whose book is this?
DO NOT SAY: who's book is this?
Whose can refer to people or to things.
Examples:
• the man whose car I borrowed
• the flower whose fragrance I love

within, in
In is often a good substitute for within.
SAY: he will stay in the building
DO NOT SAY: he will stay within the building

with respect to
Avoid using this wordy phrase.
SAY: we deny all of your allegations of negligence
DO NOT SAY: with respect to your claim of negligence, we deny all of your allegations

with the purpose of
This phrase is often redundant unless you want to emphasize the state of mind.
SAY: he entered the library to study
DO NOT SAY: he entered the library with the purpose of studying

witness
Do not use this word as a verb unless you are talking about evidence in a legal case.
SAY: we saw a play at the theater
DO NOT SAY: we witnessed a play at the theater

won't, wont
Won't is a contraction that means “will not.” Avoid using contractions in formal writing. Wont means used to or accustomed.
Example:
• he is wont to complain

would seem, would appear
Avoid using such vague expressions.
SAY: I think the building is vacant
DO NOT SAY: it would appear that the building is vacant

writer, the writer
Do not refer to yourself as the writer in your writing. Use a personal pronoun (“I”) or find some other way to draw attention to yourself.

wrong, wrongly
Wrong is an adjective and an adverb.
Examples:
• the wrong spelling
• you spelled it wrong

Wrongly is also an adverb. Place it in front of the word it modifies.
Example:
• wrongly identified

X

xerox
Say “Xerox” when you are referring to a copy made by a Xerox machine. If not, say photocopy.

x-ray, X-ray, x ray, X ray
The preferred spelling is x-ray.
WRITING EXERCISES

For each exercise, select a or b as the most acceptable alternative based on the rules and guidelines from Chapter 12 and from the previous pages.

#1  
a. To Holmes Marshall was a great judge.  
b. To Holmes, Marshall was a great judge.

#2  
a. The client described his old dilapidated apartment building.  
b. The client described his old, dilapidated apartment building.

#3  
a. Henry Jackson, Esq., is the attorney of record.  
b. Henry Jackson, Esq. is the attorney of record.

#4  
a. Moral turpitude he remarked is an important criterion.  
b. Moral turpitude, he remarked, is an important criterion.

#5  
a. On their way to court, they stopped for breakfast.  
b. On their way to court they stopped for breakfast.

#6  
a. Kline a recently elected judge received the assignment.  
b. Kline, a recently elected judge, received the assignment.

#7  
a. We studied torts, civil procedure, and contracts.  
b. We studied torts, civil procedure and contracts.

#8  
a. The client did not sue but he demanded an apology.  
b. The client did not sue, but he demanded an apology.

#9  
a. “I did not perjure myself”, he insisted.  
b. “I did not perjure myself,” he insisted.

#10  
a. Bring the notes; the law books, old and new; and the briefs.  
b. Bring the notes, the law books, old and new, and the briefs.

#11  
a. Tort law is difficult, however, it is also challenging.  
b. Tort law is difficult; however, it is also challenging.

#12  
a. Jon said, “I accept the offer;” therefore, the case ended.  
b. Jon said, “I accept the offer”; therefore, the case ended.
#13
a. Examine the following statutes, § 23, § 57, and § 107.
b. Examine the following statutes: § 23, § 57, and § 107.

#14

#15
a. Three fears, exposure, arrest, and prison, are on his mind.
b. Three fears—exposure, arrest, and prison—are on his mind.

#16
a. His orders were for her to accept the offer and that she resign.
b. His orders were for her to accept the offer and to resign.

#17
a. The committee considered the offer and discussed alternatives.
b. The committee considered the offer and alternatives were discussed.

#18
Which of the following lines has no spelling errors?
a. abridgment acknowledgment accommodate embarrass foresee commingle
b. heinous parallel wilful maneuver statute precedent liaison harass

#19
a. The courts decree requires both hospitals compliance.
b. The court's decree requires both hospitals' compliance.

#20
a. Consideration is being given this matter by the attorney.
b. The attorney is considering this matter.

#21
a. It is believed by district officials that the expense is legal.
b. District officials believe that the expense is legal.

#22
b. The fracture was discovered by plaintiffs in 1992.

#23
a. I brought thirty-two statutes and 174 cases.
b. I brought 32 statutes and one hundred seventy-four cases.

#24
a. The judge, now sitting with his colleagues, hope for a raise.
b. The judge, now sitting with his colleagues, hopes for a raise.

#25
a. A complete set of regional reporters is expensive.
b. A complete set of regional reporters are expensive.
#26
a. Each of us deserve a raise.
b. Each of us deserves a raise.

#27
a. No one, not even my coworkers, know what I will do.
b. No one, not even my coworkers, knows what I will do.

#28
a. Neither the clerks nor the paralegal works there.
b. Neither the clerks nor the paralegal work there.

#29
a. Neither Mary nor Elaine allowed their opinions to be known.
b. Neither Mary nor Elaine allowed her opinions to be known.

#30
a. Ethical competence requires an ability to reason.
b. Ethical competence requires the capacity to reason.

#31
a. The request is filed in accordance with statutory requirements.
b. The filing of this request complies with statutory requirements.

#32
a. They can give legal advice.
b. They can give legal advise.

#33
a. The rule effected everyone.
b. The rule affected everyone.

#34
a. The attorney's constant objections aggravated the judge.
b. The attorney's constant objections annoyed the judge.

#35
a. It has been several months ago since the hearing.
b. It has been several months since the hearing.

#36
a. His alibi for not appearing is that his car broke down.
b. His excuse for not appearing is that his car broke down.

#37
a. She arrived at 7 A.M.
b. She arrived at 7 a.m.

#38
a. There is a disagreement among every juror.
b. There is a disagreement between every juror.

#39
a. The fine is in the amount of $500.
b. The fine is $500.
#40
a. No one anticipated the defeat.
b. No one expected the defeat.

#41
a. The court order prohibits any phone solicitation.
b. The court order prohibits phone solicitation.

#42
a. The witness acted as though he were surprised.
b. The witness acted as if he were surprised.

#43
a. Ask the witness questions about the bills.
b. Ask the witness about the bills.

#44
a. With regard to your complaint, I deny everything.
b. I deny everything in your complaint.

#45
a. The witness did not back down.
b. The witness did not alter her position.

#46
a. He felt badly about the error.
b. He felt bad about the error.

#47
a. There is no animosity between you and I.
b. There is no animosity between you and me.

#48
a. There were no Blacks on the jury.
b. There were no blacks on the jury.

#49
a. He took his sister to court.
b. He brought his sister to court.

#50
a. The bank closed the account because of insufficient funds.
b. The bank closed the account by reason of insufficient funds.

#51
a. Can we approach the bench?
b. May we approach the bench?

#52
a. The attorney cannot attend the conference.
b. The attorney can't attend the conference.

#53
a. The chairman objected.
b. The chair objected.
#54
a. The witness claimed that the guard delivered the letter.
b. The witness maintained that the guard delivered the letter.

#55
a. The tables are in close proximity to each other.
b. The tables are close to each other.

#56
a. The judge asked the defendant to try and finish by noon.
b. The judge asked the defendant to try to finish by noon.

#57
a. The consensus of opinion is to accept the proposal.
b. The consensus is to accept the proposal.

#58
a. AIDS is an infectious disease.
b. AIDS is a contagious disease.

#59
a. The fee for his phone counsel is $150.
b. The fee for his phone council is $150.

#60
a. Helen assaulted him in the course of the discussion.
b. Helen assaulted him during the discussion.

#61
a. The criteria is acceptable.
b. The criteria are acceptable.

#62
a. Judge Jones is currently on the bench.
b. Judge Jones is on the bench.

#63
a. The data reveal inconsistencies.
b. The data reveals inconsistencies.

#64
a. The court deemed the mother to be unfit.
b. The court considered the mother to be unfit.

#65
a. Three different people qualified for the exemption.
b. Three people qualified for the exemption.

#66
a. The witness is not discreet about his clothes.
b. The witness is not discrete about his clothes.

#67
a. Don’t remove the assets.
b. Do not remove the assets.
#68  
a. He resigned during the course of the trial.  
b. He resigned during the trial.  

#69  
a. There are many kinds of laws, e.g., cases, statutes, and charters.  
b. There are many kinds of laws, i.e., cases, statutes, and charters.  

#70  
a. The court required no one else but Ted to perform the contract.  
b. The court required no one but Ted to perform the contract.  

#71  
a. He decided to immigrate from his homeland to a neighboring country.  
b. He decided to emigrate from his homeland to a neighboring country.  

#72  
a. The attorney asked for a more equal distribution.  
b. The attorney asked for an equal distribution.  

#73  
a. Mr. George A. Frienner, Esq.  
b. George A. Frienner, Esq.  

#74  
a. The forgery is a replica of the original.  
b. The forgery is an exact replica of the original.  

#75  
a. I expect that the jury will find for the plaintiff.  
b. I believe that the jury will find for the plaintiff.  

#76  
a. The attorneys discussed each contributing factor in the defeat.  
b. The attorneys discussed each factor in the defeat.  

#77  
a. She denies the fact there is a shortage.  
b. She denies there is a shortage.  

#78  
a. He studied the field of corporate law.  
b. He studied corporate law.  

#79  
a. The court held that the plaintiff sent the premium in the mail.  
b. The court found that the plaintiff sent the premium in the mail.  

#80  
a. First, pay the fine. Secondly, return the property.  
b. First, pay the fine. Second, return the property.  

#81  
a. He would not form a response.  
b. He would not formulate a response.
a. The judge acted for the purpose of encouraging a settlement.
b. The judge acted to encourage a settlement.

a. What are your future plans? You should plan ahead now.
b. What are your plans? You should plan now.

a. The evidence consisted of a half a pound of heroin.
b. The evidence consisted of a half pound of heroin.

a. The general consensus was to proceed.
b. The consensus was to proceed.

a. We lost the case. However, we continued to participate.
b. We lost the case. Yet, we continued to participate.

a. The escrow agent distributed the funds to Fred and I.
b. The escrow agent distributed the funds to Fred and me.

a. He fell in the ditch.
b. He fell into the ditch.

a. The court is not in a position to order the removal.
b. The court cannot order the removal.

a. She indicated that she wanted to resign.
b. She said she wanted to resign.

a. The wave is four feet in size.
b. The wave is four feet.

a. Ted arrived in order to vote.
b. Ted arrived to vote.

a. The court will take no action with regard to your application.
b. The court will take no action on your application.

a. The supervisors monitor all interpersonal relationships.
b. The supervisors monitor all personal relationships.

a. You must phone in the event that they cancel the meeting.
b. You must phone if they cancel the meeting.
#96
a. He found the evidence in the immediate vicinity of the car.
b. He found the evidence near the car.

#97
a. It's a matter of opinion.
b. Its a matter of opinion.

#98
a. He made an erroneous judgement.
b. He made an erroneous judgment.

#99
a. Lie the pen on the table.
b. Lay the pen on the table.

#100
a. She has considerable competence.
b. She has considerable know-how.

#101
a. The commander would like for you to return to the base.
b. The commander would like you to return to the base.

#102
a. Five judges voted. Three wrote separate opinions. Two wrote an opinion together. The latter is the majority opinion.
b. Five judges voted. Three wrote separate opinions. Two wrote an opinion together. The latter is the plurality opinion.

#103
a. His objective did not materialize.
a. His objective was not met.

#104
a. The media refuses to cover the trial.
b. The media refuse to cover the trial.

#105
a. The number of cases is unmanageable.
a. The number of cases are unmanageable.

#106
a. More important, the judge waived the fine.
a. More importantly, the judge waived the fine.

#107
a. The delay is an optimistic indication of caution.
b. The delay is a hopeful indication of caution.

#108
a. She refused all clauses except the fifth.
b. She refused all clauses other than the fifth.

#109
a. State your particular objections.
b. State your objections.
#110
a. The order remains in effect for a period of years.
b. The order remains in effect for years.

#111
a. The attorney filed the motion plus she went to the meeting.
b. The attorney filed the motion and she went to the meeting.

#112
a. The suspect is practically dead.
b. The suspect is almost dead.

#113
a. She is not prepared to accept the outcome.
b. She is not ready to accept the outcome.

#114
a. She removed her files prior to resigning.
b. She removed her files before resigning.

#115
a. That is the plaintiff's principal means of support.
b. That is the plaintiff's principle means of support.

#116
a. The book that I read is on the table.
b. The book which I read is on the table.

#117
a. Tell me whether or not you agree.
b. Tell me whether you agree.

#118
a. The first clause is accepted, while the second is not.
b. The first clause is accepted, but the second is not.

#119
a. Avoid all contact whatsoever with the defendant.
b. Avoid all contact with the defendant.

#120
a. We will reject all offers over and above $10,000.
b. We will reject all offers over $10,000.

#121
a. You shall report at noon.
b. You are directed to report at noon.

#122
a. The clause is binding on all parties.
b. The clause binds all parties.

#123
a. The law requires you to make payment at the beginning of the month.
b. The law requires you to pay at the beginning of the month.
#124
a. My acceptance is dependent on the amount of your offer.
b. My acceptance depends on the amount of your offer.

#125
a. It is not unreasonable to expect payment on time.
b. It is reasonable to expect payment on time.
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### Answers to Exercises

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