How to Write a Casenote Workshop

Presented by the University of Miami Law Review
What is a Casenote?

- **A casenote:**
  - Is a scholarly report of a recent, significant decision
  - Is a concise analysis of an opinion
  - Contains citations to related cases and important secondary authorities
Sections of a Casenote

I. Introduction
   A. Lead Paragraph
   B. Background
   C. Roadmap

II. Prior Law and Perspective

III. Main Case

IV. Analysis

V. Conclusion
I. Introduction

- Engage the reader with a sentence, quote, or hypothetical that will pique the reader’s interest
- Paint a broad thumbnail sketch with a literally broad brush
- Identify the basic issues and themes, setting the stage for what will follow
- Tell the reader why the primary case is important
A. Background

- Give a **brief** description of relevant law leading up to the casenote’s topic
- Put the lead case in perspective
- Be specific as to the trend that you are focusing on, while setting out relevant facts of your case
B. Roadmap

- Explain the structure of your casenote
- Preview the recent development and the prior law, while simultaneously identifying the gravamen of your analysis
- Does this development extend the trend or break new ground? Does it clarify the relevant area of law? Is it a new approach to the same problem?
II. Prior Law

- Set out the legal history leading to the recent development discussed in your casenote
- Identify the important cases, statutes, and secondary sources in the area
- Organize by approaches, not by cases
- When discussing case law, discern what is necessary and what is not necessary (e.g., procedural posture, critical facts, reasoning, etc.)
III. Main Case

- Identify significant facts, procedural posture, and parties in detail
- Elaborate as to how this case came about and state its impact on prior law
- Briefly describe the majority and, if any, concurring or dissenting opinions in your case
IV. Analysis

- Here, your creativity and argument emerges
- Synthesize the prior law in the area
- Elaborate as to how your position reverses, extends, or deviates from prior law
- Incorporate analysis lower courts’ majority and dissenting opinions
- Note any implications & potential criticisms of your argument
V. Conclusion

- Give a big-picture perspective
- Do **not** introduce new material or arguments
- Flow smoothly from your previous analysis without simply regurgitating it to the reader
Writing the Analysis Section

- As in a law school exam, this is the most important part of the casenote—so make it count
- This is important for a variety of reasons
Types of Arguments

- The court was right or wrong and for specific reasons
- The court did not really accomplish anything
- The court properly applied or misapplied prior law or the statute
- What do you think the court should have done?
- What will the Court do? (where it has yet to decide the case)
Helpful Examples of Legal Writing

Tips from Writing Dean’s Fellows

• Writing Dean’s Fellows are available through the last day of classes to look over writing samples and offer areas where your writing is strong and areas where you could improve.
Tips from Successful Participants

• Additionally, all of the winning casenotes from last year’s UMLR Writing Competition will be made available on the UMLR website after finals.
Bluebooking

- For purposes of the writing competition, Bluebooking can count for as much as one-fourth of your score.
- Even if you do not participate in the writing competition, strong Bluebooking is crucial for the law review editing process.
- Use the index!
Bluebook Printing Cases: The Basics

- General: Rule 10.1 (page 88)
- 4 Basic Elements:
  - Party Names: Rule 10.2 (p. 89)
  - Reporter: Rule 10.3 (p. 95) and T.1 (p. 215)
  - Year: Rule 10.5 (p. 99)
  - Short Cites: Rule 10.9 (page 107)
Bluebooking Cases: The Basics

- **Distinguishing Party Names in Text and in Citations:**
  - **Used As Text** (Rule 10.2): In *United Housing Foundation, Inc. v. Forman*, the Court held that . . .
    - Only abbreviate according to Rule 10.2.1(c) (p. 91).
    - Remember to abbreviate according to T.6 (p. 430)!
  - **As a Short Citation in Footnotes** (Rule 10.9): *United Hous. Found.*, 421 U.S. at 844.
Short Cites (Rule 10.9)

- The Five Footnote Rule: If a case is cited within the five preceding footnotes, you can short cite.
- This includes any citation in a parenthetical. However, you may not use “id.” for a cite in a parenthetical.


- An “id.” may not be used for McGuane v. Fitzgibbons.
- McGuane v. Fitzgibbons may be short cited within the next five footnotes.
- However, an “id.” may be used for Thompson v. Byers.
Bluebooking Law Review Articles

• Author’s Full Name in Ordinary Roman, Name of the Article in Italics, 23 LAW REVIEW IN SMALL CAPS 122, 125 (2013).
  ○ Rule 16 (p. 147).
  ○ Author’s name as it appears in article.
  ○ Title, capitalized according to Rule 8 (p. 84) but not abbreviating or omitting words.
  ○ The 23 here is the volume number; the 122 here is the page at which the article begins; the 125 is the pincite.
  ○ The name of the law review or journal should be abbreviated according to T.13 (p. 444).
  ○ The year goes in parentheses.

- Include the “C” in Robert C. Ellickson—if the author maintained it.
- If the title was “Of Coase & Cattle,” you should keep the “&.”
- The title should appear as it appears in the article. Include the subtitle.
- Stanford Law Review abbreviated as shown in T.13 (p. 444). The name of the publication should appear in large and small capitals according to Rule 16.1 (pp. 148–49).
- Page 633 is the pincite to the article.
Bluebooking Newspapers

  - Rule 16.6 (p. 151).
  - Author’s name, as it appears in the article.
  - Article title as it appears in italics.
  - Tribune shortened to Trib. according to T.13 (p. 444). The name of the publication is in large and small capitals according to Rule 16.1 (pp. 148–49).
  - Date abbreviated according to T.12 (p. 444).
  - The start page of the article, with an “at” in front.
  - Do not pincite to newspaper articles.
Bluebooking Internet Sources

- **Rule 18** (p. 164).
- **Articles** and **Blogs** only available on the internet follow Rule 18.2.2:
Rule 1.2 (p. 54).

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

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

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

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

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

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

- See generally when cited authority presents helpful background material related to the proposition.
  - Explanatory parenthetical is highly encouraged.
- Compare X and Y with Z.
  - Comparison of the authorities will offer support or illustrate the proposition. An explanatory parenthetical following each authority is highly recommended.
Bluebooking: *Supra*

- Use “*supra*” to refer back to material that has already been fully cited (unless “*id.*” is appropriate or “*supra*” is inappropriate for the authority [Rule 4.2, p. 74]).
  - “*Supra*” generally **should not be used** to refer to authorities such as *cases, statutes, constitutions, restatements, model codes, or regulations*. For other sources, *supra* generally may be used (see Rule 4.2 for an exhaustive list).

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

Bluebooking: *Infra*

- Use “*infra*” to refer to material that appears **later in the piece** (Rule 3.5, p. 71).
- **Examples:**
  - See discussion *infra* Parts II.B.2, III.C.1.
  - See *infra* pp. 106–07.
  - See *infra* p. 50 and note 100.
Bluebooking: “Hereinafter”

- Use “hereinafter” to refer to material that would be cumbersome to cite solely according to traditional short citations or *supras* (Rule 4.2, p. 74).

- **Examples:**
  - *In re Multidistrict Private Civil Treble Damage Antitrust Litig. Involving Motor Vehicle Air Pollution Control Equip.*, 52 F.R.D. 398 (C.D. Cal. 1970) [hereinafter *Air Pollution Control Antitrust Case*].
    - *Hearings*, supra note 95, at 12.
Surviving the Competition

- **Time Management**
  - The packet is an enormous amount of material
  - Outline before you write
  - Leave time to revise
  - Reserve time for Bluebooking

- **Stress Management**
  - Exercise, get sleep, eat right!
QUESTIONS?

Please, ask them now . . .