Checklist for an Objective Discussion of a Fact-Based Issue: One Issue and One Case

NOTE: The purpose of this checklist is to help you think critically about the structure and content of your paper. The checklist is not an exhaustive list of everything that must be included in your paper.

Framework Paragraph

____ Have you told your reader the issue you are addressing in your discussion?

____ Have you provided the issue in the proper factual context, including *only* those facts necessary to set up the legal issue and saving the other detailed facts for the analysis?

____ If this is the first time you have mentioned the parties involved in your client's case, have you introduced the parties using their full names?

____ Have you not only provided the substantive issue but also placed that substantive issue in the proper procedural context?

____ Have you included any rules that will be needed to answer the question or that are helpful as general information? And have you quoted the key language of those rules and provided citations to the authorities where you found those rules?

____ (Optional) Have you told your reader your outcome in this case (turning this first paragraph into a thesis paragraph)?

Organization

A. Read the first sentence of each paragraph to check your structure.

___ Did you make the structure of your discussion obvious through clear topic or thesis sentences?

B. Check your placement of your rule and your rule explanation.

___ Have you provided the rule explanation *after* setting out the main rule and *before* applying the case facts to the facts of your client's case?

Rule(s)

___ Did you bring up a rule as it became relevant in your discussion?
___ Did you quote the rule(s) or, if you paraphrased the rule(s), were you careful not to change the meaning of the rule(s)?
___ Did you cite to the authority where you found the rule(s)?

Rule Explanation

___ Does the rule explanation contain the following information?
   ___ The parties in the case, identified by generic names that reflect the relationship of the parties in the legal dispute (e.g., seller/buyer, slayer/deceased, husband/wife).
   ___ The facts of the case relevant to the issue being analyzed.
   ___ The court's holding on the issue being analyzed.
   ___ The court's reasoning for the holding on the issue being analyzed.
___ Did you *complete* the rule explanation before mentioning the facts of your client's case and how the facts of your client's case are similar to or different from the facts in the rule explanation?

Analysis

___ Were your references to your client's facts as explicit and specific as possible? Remember, you are writing to an unfamiliar reader. Don't rely on the reader's knowledge of the facts.
___ When you stated similarities or differences between the facts of the case law and the facts of your client's case, were you explicit about the facts you were comparing?

NOTE: It is not acceptable to make a reference too general, such as, "Similar to *Mats Transport,* Ana. . . ." You must state the *specific facts* of the case law and the *specific facts* of your client's case.

Draw an arrow connecting the facts of the case law and the facts of your client's case. The facts should be connected within the same sentence or in adjacent sentences.

___ When you bring up facts from case law in your analysis, did you review the preceding rule explanation to make sure you first mentioned those facts in that rule explanation?

___ Did you mention any additional facts present in your client's case (which may not be directly comparable to or distinguishable from the facts present in the case law) that could logically support the position in your analysis?

___ Did you draw reasonable inferences from your client's facts and the similarities/differences between your client's case and the case law to support your analysis? Use facts and similarities/distinctions to draw reasonable inferences that support your analysis. Do not simply indicate the important facts and similarities/distinctions and then conclude. Make a clear connection between the facts and the law.

___ Did you avoid comparing the holding of a court in the case law to what the holding may be in your client's case?

NOTE: It is not an analysis to compare a case holding to the anticipated holding in your client's case, such as, "Similar to *Mats Transport,* where the court found the CNC unreasonable, the CNC that Ana has been ordered by the court to sign is also unreasonable." Rather, you must compare the similarities or differences of the facts of the case law to the facts of your client's case.

___ Have you avoided creating new facts or speculating about events not present in your client's case?

___ Did you avoid stating a conclusion at the end of the stronger position analysis before beginning the weaker position analysis? (Stating a conclusion at the end of the stronger position analysis can be confusing to the reader because the reader will think you have completed your discussion of the issue.)

Conclusion

___ Have you provided a quick overall conclusion that answers the main question posed by the supervising attorney, indicating the main reasons supporting your conclusion?

___ Have you *not* included new law and analysis in the conclusion? (If important, this information belongs in the discussion.)

___ Have you omitted references to authority?

___ Have you omitted statements such as "I believe," "I feel," and "It is my opinion that"?

Citation
Note: See Chapter 19 for the basic citation rules.

___ Did you give a full cite to a case the first time you mentioned it? Did you either

    ___ provide the complete cite at the end of the sentence or

    ___ provide the full name of the case in the sentence and wait until the end of the sentence to give the citation?

___ Did you give a pinpoint cite to a case each time you quoted from the case?

___ Did you give a pinpoint cite to a case each time you told the reader what the court did in that case (held, stated, reasoned, found, etc.)?

___ Did you give a pinpoint cite to a case each time you paraphrased a rule or an idea from the case?

___ If you took something from a case where the court quoted from authority, did you use the proper citation format showing this to the reader?

___ If you use the "*id.*" short citation format, did the last cite refer to the same authority that you are referring to now?

Format and Style

1. Check your quoted text.

___ Have you quoted key language

    ___ from the rule?

    ___ from the court's reasoning?

___ Do the quoted passages embedded in your sentences make sense within the context of your sentence. (Did you change the tense of verbs, change words, add words, or omit words, if necessary, so that the quoted passages read logically within the context of your paper?)

___ If the quoted text comprises 50 words or more, have you placed the quote in block form (indented, single-spaced, with no quotation marks)?

___ If the quoted text is 49 words or less, have you placed quotation marks around the quoted text?

    ____ Have you provided ellipses where you have excluded language from the middle or end of a quoted text?

    ____ Have you provided brackets around letters or words that you added to or changed from the original text?

2. Check grammar, style, punctuation, and typographical errors.

    ____ Did you avoid using first person, unless you are referring to "our client"?

    ____ Did you avoid using word contractions such as *wouldn't, didn't, can't*?

    ____ Did you underline or italicize all case names?

    ____ Did you use past tense for verbs when referring to information from the case, describing what a court did in a case (e.g., *held, reasoned, stated*), or stating the facts of your client's case?

    ____ Did you use objective-type verbs when describing a court's action (e.g., *reasoned, held, found, stated*) rather than subjective-type verbs (e.g. *believed, felt*)?

    ____ Did you use the pronoun *it* when referring to a company, court, or organization?

    ____ Did you avoid using the adverbs *clearly* or *obviously* in your analysis? If a statement truly reflects something that is clear or obvious, you don't need the adverb.

    ____ Did you avoid posing rhetorical questions in your paper? Rhetorical questions do not add to the reader's knowledge of the subject matter. At best, they are unnecessary space fillers; at worst, they may lead the reader to a different answer than the one you are supporting with your analysis.

    ____ For a party's name in your client's case, did you give the full name of the party the first time you mention the party (e.g., *Ana Hart*), but thereafter use a short name to refer to the party (e.g., *Ana, Hart,* or *Ms. Hart*)? Were you consistent in using the same short name when referring to this party throughout the paper?

    ____ Were all periods or commas correctly placed inside quotation marks?