

---

# CONTENTS

<i>List of Illustrations</i>	xxiii
<i>Preface</i>	xxv
<i>Acknowledgments</i>	xxvii

## **CHAPTER 1 INTRODUCTION TO LEGAL RESEARCH AND WRITING** 1

### *CHAPTER OVERVIEW* 1

#### **A. INTRODUCTION TO LEGAL RESEARCH AND WRITING** 2

##### **1. The Role of the Paralegal in Legal Research and Writing** 2

Why Do Paralegals Perform Research? 2

What Tasks Do Paralegals Handle in the Research and Writing

Process? 2

#### **B. INTRODUCTION TO THE U.S. LEGAL SYSTEM** 3

##### **1. The Organization of the Legal System** 3

How Did the Federal and State Systems Originate? 4

##### **2. Components of the Federal System and Governing Law** 4

a. The Legislative Branch 4

How Is Legislation Enacted? 5

b. The Executive Branch 5

c. The Judicial Branch 8

Who Can Bring an Action in Federal Court? 9

i. *The Trial Courts* 10

ii. <i>The Appellate Courts</i>	10
iii. <i>The Supreme Court</i>	10
<b>3. Relationship Between Federal and State Governments</b>	11
Can a Federal Court Decide an Issue of State Law?	11
What Effect Does a Federal Decision Have on State Law?	11
Are Federal and State Agencies Part of One Governing Body?	13
<b>4. Organization of State Governments</b>	13
What Are the Duties of the State Courts?	14
Can State Courts Decide Issues of Federal Law?	15
<i>Chapter Summary</i>	15
<i>Key Terms</i>	15
<i>Exercises</i>	16
<b>CHAPTER 2 LEGAL AUTHORITIES AND HOW TO USE THEM</b>	19
<i>CHAPTER OVERVIEW</i>	19
<b>A. DETERMINATION OF GOVERNING LAW</b>	20
<b>1. Jurisdiction</b>	20
What Factors Determine Which Jurisdiction Governs Your Case?	20
<b>2. Precedent</b>	20
<b>3. Hierarchy of Authorities</b>	21
a. Currency	21
b. Levels of Court	22
c. Conflicting Decisions Between Circuits	23
d. State and Federal Decisions Concerning an Issue	24
e. Conflicts in Federal and State Authority	25
f. State Court Decisions	25
<b>4. Dicta</b>	25
<b>B. TYPES OF LEGAL RESOURCES</b>	26
<b>1. Primary Authority</b>	26
How Do You Determine Whether a Case Is Mandatory or Binding?	27
When Is a Case or Statute Persuasive Authority?	27
What Process Should You Undertake to Decide When to Use Persuasive Authority?	28
<b>2. Secondary Authority</b>	28
<b>3. Finding Tools</b>	31
<b>4. Hybrid Sources of Authority</b>	31
<b>5. Nonlegal Sources</b>	31
<b>C. USE OF AUTHORITIES OR SOURCES IN YOUR LEGAL WRITING</b>	31
<b>1. Essential Sources to Cite</b>	31

<b>2. Valuable Sources to Cite</b>	32
<b>3. Sources Never to Cite</b>	32
<i>Checklist</i>	32
<i>In-Class Exercise</i>	33
<i>Chapter Summary</i>	34
<i>Key Terms</i>	35
<i>Exercises</i>	35
<b>CHAPTER 3 GETTING READY TO WRITE</b>	39
<i>CHAPTER OVERVIEW</i>	39
<b>A. WRITING GOALS AND HOW TO ACHIEVE THEM</b>	40
How Do You Plan Your Communication and Revise It?	40
<b>B. THE WRITING PROCESS</b>	40
<b>1. Preparing to Write: Purpose and Audience</b>	41
How Do You Complete the Research Process and Make the Transition to Writing?	41
a. Purpose	41
What Is the Purpose of the Document?	41
b. Audience	42
To Whom Are You Speaking?	42
<b>2. Drafting a Detailed Outline</b>	43
How Do You Organize Your Ideas?	43
<b>3. Revise for Readability</b>	44
<b>4. Example of Process Writing Techniques</b>	45
<i>Checklist</i>	46
<i>Chapter Summary</i>	47
<i>Key Terms</i>	47
<i>Exercises</i>	47
<b>CHAPTER 4 CLEAR WRITING AND EDITING</b>	51
<i>CHAPTER OVERVIEW</i>	51
<b>A. PURPOSE OF EDITING</b>	52
<b>B. PROCESS OF EDITING</b>	52
<b>C. SPECIFIC ITEMS TO REVIEW WHILE EDITING</b>	53
<b>1. Diction</b>	53
What Is Diction?	53

What Are Concrete Verbs?	53
How Do You Avoid Legalese or Legal Speak?	55
2. <b>Voice</b>	55
What Is the Difference Between Active Voice and Passive Voice?	56
3. <b>Paragraphs</b>	57
4. <b>Sentences</b>	57
5. <b>Other Key Rules</b>	57
<i>Revision Checklist</i>	58
<i>Chapter Summary</i>	59
<i>Key Terms</i>	59
<i>Exercises</i>	59
<b>CHAPTER 5 WRITING BASICS</b>	63
<i>CHAPTER OVERVIEW</i>	63
<b>A. PUNCTUATION</b>	64
1. <b>Commas</b>	64
2. <b>Special Comma Rules</b>	65
3. <b>Semicolons</b>	66
4. <b>Colons</b>	66
5. <b>Parentheses</b>	67
6. <b>Double Quotation Marks</b>	67
7. <b>Single Quotation Marks</b>	67
8. <b>Apostrophes</b>	68
<b>B. MODIFIERS</b>	68
<b>C. PARALLEL CONSTRUCTION</b>	69
<b>D. SUBJECT AND VERB AGREEMENT</b>	69
<b>E. RUN-ON SENTENCES</b>	72
<b>F. SENTENCE FRAGMENTS</b>	72
<b>G. <i>THAT</i> AND <i>WHICH</i></b>	73
<b>H. PRONOUNS</b>	73
<i>Chapter Summary</i>	74
<i>Key Terms</i>	75
<i>Exercises</i>	75

<b>CHAPTER 6 CASE BRIEFING AND ANALYSIS</b>	77
<i>CHAPTER OVERVIEW</i>	77
<b>A. PURPOSE OF A CASE BRIEF</b>	78
<b>B. DIAGRAM OF A DECISION</b>	78
In-Class Exercise	81
<b>C. ANATOMY OF A CASE BRIEF</b>	81
<b>1. Citation</b>	81
<b>2. Procedural History</b>	84
<b>3. Issues</b>	86
How Do You Determine the Legal Issue or Issues Presented When Examining a Client's Problem?	86
How Do You Draft a Statement of the Issue or Issues?	86
<b>4. Holding</b>	88
How Do You Draft a Holding?	88
<b>5. Facts</b>	89
What Are the Relevant Facts?	89
How Do You Organize Your Facts Statements?	90
<b>6. Reasoning</b>	92
<b>7. Dicta</b>	94
<b>8. Disposition</b>	94
In-Class Exercise	95
<b>D. CASE ANALYSIS</b>	99
<b>1. Sample Single Case Analysis</b>	100
<b>2. Sample Analysis Using Two Cases</b>	107
<i>Chapter Summary</i>	109
<i>Key Terms</i>	109
<i>Exercises</i>	110
<b>CHAPTER 7 THE LEGAL MEMORANDUM</b>	115
<i>CHAPTER OVERVIEW</i>	115
<b>A. THE LEGAL MEMORANDUM</b>	116
What Is an Objective Legal Memorandum and Why Is It Written?	116
<b>B. AUDIENCE</b>	116
Who Reads a Memorandum?	116
<b>C. COMPONENTS OF A MEMORANDUM</b>	117
What Is Included in a Memorandum?	117

<b>1. Heading</b>	122
<b>2. Questions Presented or Issues</b>	123
<b>3. Conclusion or Brief Answer</b>	123
What Is the Difference Between a Conclusion and a Brief Answer?	124
<b>4. Facts</b>	124
<b>5. Discussion</b>	125
<b>D. STEPS IN DRAFTING A MEMORANDUM</b>	126
What Steps Should You Take in Drafting a Memo?	126
<b>1. Memo Drafting Tips</b>	126
<i>Checklist for Drafting a Memorandum</i>	127
<i>Chapter Summary</i>	127
<i>Key Terms</i>	128
<i>Exercises</i>	128
<b>CHAPTER 8 QUESTIONS PRESENTED AND CONCLUSIONS OR BRIEF ANSWERS</b>	129
<i>CHAPTER OVERVIEW</i>	129
<b>A. QUESTIONS PRESENTED OR ISSUES</b>	129
Who Reads the Questions Presented Statement?	130
<b>1. First Draft</b>	130
What Are Legally Significant Facts?	131
<b>2. Research the Issue and Revise It</b>	131
<b>3. Specificity and Precision</b>	133
<b>B. BRIEF ANSWERS AND CONCLUSIONS</b>	133
<b>1. Brief Answers</b>	133
<b>2. Conclusions</b>	134
How Is a Conclusion Different from a Brief Answer?	135
<b>3. Drafting Conclusions</b>	135
<i>Chapter Summary</i>	137
<i>Key Terms</i>	137
<i>Exercises</i>	138
<b>CHAPTER 9 FACTS</b>	143
<i>CHAPTER OVERVIEW</i>	143
<b>A. FACTS STATEMENT</b>	144
<b>1. Defining Fact</b>	144
<b>2. Legally Significant Facts</b>	144
What Facts Should Be Included in the Facts Statement?	144

3. Fact Versus a Legal Conclusion	146
4. Source of Information for a Facts Statement	147
<b>B. ORGANIZING THE FACTS STATEMENT</b>	148
What Are the Different Methods of Organizing a Facts Statement?	148
1. Chronological Organization	148
2. Organization by Claim or Defense	149
3. Organization by Party	150
4. Combination of Chronological and Claim or Party Organization	151
<b>C. WRITING THE FACTS STATEMENT</b>	153
1. Prepare a List of Facts and Preliminary Statement	153
2. Research the Issue	155
3. Revise to Include Only Legally Significant Facts	155
4. Organize the Facts	156
5. Rewrite the Facts Statement	156
<i>Chapter Summary</i>	157
<i>Key Terms</i>	157
<i>Exercises</i>	158
<b>CHAPTER 10 THE IRAC METHOD</b>	167
<i>CHAPTER OVERVIEW</i>	167
<b>A. PURPOSES OF IRAC</b>	168
What Is IRAC?	168
<b>B. IRAC COMPONENTS</b>	168
What Does an IRAC Paragraph Look Like?	168
1. Issues	170
What Is the Difference Between the Question Presented and the Issues in IRAC Paragraphs?	170
2. Rules of Law	171
Why Is Citation Important?	172
3. Application of the Law to the Problem's Facts	173
How Do You Use the Legally Significant Facts?	173
4. Conclusion	174
<i>Chapter Summary</i>	174
<i>Key Terms</i>	175
<i>Exercises</i>	175

<b>CHAPTER 11 SYNTHESIZING CASES AND AUTHORITIES</b>	185
<i>CHAPTER OVERVIEW</i>	185
<b>A. SYNTHESIS</b>	186
What Is the Process of Synthesizing Legal Rules?	186
Why Do We Synthesize Legal Authority?	186
<b>B. TYPES OF SYNTHESIS</b>	187
What Are the Four Methods of Synthesizing Authority?	187
<b>C. STEP-BY-STEP PROCESS TO SYNTHESIZING LEGAL RULES</b>	188
<b>D. EXAMPLES OF CASE SYNTHESIS</b>	189
How Do You Synthesize Two Sources of Statutory Authority?	197
<i>Checklist</i>	198
<i>Chapter Summary</i>	199
<i>Key Terms</i>	199
<i>Exercises</i>	199
<b>CHAPTER 12 OUTLINING AND ORGANIZING A MEMORANDUM</b>	203
<i>CHAPTER OVERVIEW</i>	203
<b>A. PURPOSE OF OUTLINING</b>	204
<b>B. STEPS TO OUTLINING</b>	204
1. Steps in Compiling a List of Legal Authorities	204
2. Organize Issues	208
What Steps Should You Follow in Preparing Your Outline of Each of the Issues?	208
3. Draft a Thesis Paragraph	208
4. Determine Which Element to Discuss First	210
5. List Elements or Subissues	210
6. Add Authority	210
7. Refine Issues	210
8. Arrange the Order of Elements	211
9. Organize into IRAC Paragraph	211
<b>C. MULTI-ISSUE MEMORANDUM</b>	211
How Do You Organize a Multi-Issue Memorandum?	211
In-Class Exercise	223



<i>Chapter Summary</i>	226
<i>Key Terms</i>	227
<i>Exercises</i>	227
<b>CHAPTER 13 PERSUASIVE WRITING</b>	231
<i>CHAPTER OVERVIEW</i>	231
<b>A. THE NATURE OF PERSUASIVE WRITING</b>	232
What Kinds of Documents Are Persuasive?	232
Which Aspects of Persuasive Writing Do Paralegals Perform?	233
What Is the Difference between Objective and Persuasive Writing?	233
<b>B. TECHNIQUES</b>	233
Is There a Formula for Persuasive Writing as There Is for Objective Writing?	233
What Are Some Techniques Used in Persuasive Writing?	235
Are There Any Other Tools That Are Helpful for Persuasive Writing?	236
Are There Any General Rules for Writing Persuasively?	237
When Does the Need to Write Persuasively Arise?	237
<b>C. TYPES OF PERSUASIVE WRITING</b>	238
<b>1. Complaints</b>	238
What Is a Complaint?	238
How Do You Know What to Include in a Complaint?	238
<b>2. Answer</b>	241
What Is an Answer and What Is Its Purpose?	242
When Is an Answer Filed?	242
What Are the Components of an Answer?	244
How Do You Draft the Body of an Answer to a Complaint?	244
<b>3. Motions</b>	245
What Is a Motion?	245
What Is a Memo in Support of Motions or an Advocacy Memo?	246
How Do You Organize an Argument?	251
<b>4. Trial Briefs</b>	253
What Is a Trial Brief?	253
How Do You Draft a Trial Brief or Memorandum in Support of a Motion?	253
<b>5. Summary Judgment Motions</b>	254
What Is a Summary Judgment Motion?	254
What Should Be Included in a Motion for Summary Judgment and How Do You Draft One?	254
<b>6. Appellate Briefs</b>	255
Are There Any General Tips for Writing an Appellate Brief?	261
<b>7. Other Forms of Persuasive Writing</b>	262
Are There Any Instances When Persuasive Writing Is Used in a Transaction?	262

<i>Chapter Summary</i>	263
<i>Key Terms</i>	263
<i>Exercises</i>	263
<b>CHAPTER 14 IN-HOUSE AND OBJECTIVE CLIENT DOCUMENTS</b>	269
<i>CHAPTER OVERVIEW</i>	269
<b>A. CLIENT OR WITNESS INTERVIEW SUMMARY</b>	270
What Is a Client or Witness Interview Summary?	270
What Questions Should You Ask Yourself Before You Begin to Write?	270
<b>1. Client's Statements</b>	270
<b>2. Witness's Statements</b>	271
How Do You Draft a Client or Witness Summary?	271
<b>B. MEETING SUMMARIES</b>	273
What Should Be Included in a Meeting Summary?	273
How Do You Draft a Meeting Summary?	274
<b>C. STATUS MEMOS</b>	275
What Is a Status Memo, and Who Reads It?	275
How Often Should a Status Memo Be Prepared?	276
What Should the Detailed Summary Include?	276
<b>D. DEPOSITION SUMMARIES</b>	278
What Is a Deposition Summary?	278
When and Why Do You Draft a Deposition Summary, and Who Will Read It?	278
How Do You Draft a Deposition Summary?	279
<b>E. DEPOSITION ABSTRACTS</b>	280
What Is the Difference Between a Deposition Summary and a Deposition Abstract?	280
Who Will Read the Deposition Abstract?	280
What Is the Purpose of a Deposition Abstract, and When Is It Drafted?	281
What Format Is Used for a Deposition Abstract?	281
How Do You Draft an Abstract?	283
<b>F. TRANSACTION SUMMARY</b>	283
<i>Chapter Summary</i>	285
<i>Key Terms</i>	285
<i>Exercises</i>	285

<b>CHAPTER 15 CORRESPONDENCE</b>	295
<i>CHAPTER OVERVIEW</i>	295
<b>A. BASICS OF LETTER WRITING</b>	296
What Formats Are Used?	296
<b>B. COMPONENTS OF A LETTER</b>	297
1. Letterhead and Headers	297
2. Date	298
3. Method of Transmission	299
4. Inside Address	299
5. Reference Line	299
6. Greeting	300
7. Body of Letter	300
8. Closing	301
9. Copies to Others and Enclosures	301
<b>C. TYPES OF LETTERS</b>	303
1. Confirming Letters	303
2. Status Letters and Transaction Summary Letters	303
3. Demand Letters	310
4. Opinion Letters	312
5. Email	313
a. Subject Lines for Email	315
6. Social Media	315
7. Texting	317
<i>Checklist</i>	318
<i>Chapter Summary</i>	319
<i>Key Terms</i>	319
<i>Exercises</i>	320
<i>Appendix A: Citation</i>	325
<i>Appendix B: Writing Strategies</i>	341
<i>Index</i>	343