## **Contents**

Preface Acknowledgements Introduction	xix xxi xxiii
1 The American Legal System	1
The Legislative Branch	2
Term Limits	2
State Legislatures	3
The Executive Branch	3
Governors	4
The Judicial Branch	4
State Courts	4
The System of Checks and Balances	5
The Supremacy Clause	8
The Judicial Process	9
Jurisdiction	11
Location	11
Subject Matter	11
Constitutionality	11
Basis for Appeal	12
Frivolous Lawsuits	12
Other Types of Law	13
The Law in Everyday Life	14
Key Terms	14
Review Questions	15
Legal Challenge	15
Web Sites	15

x Contents

2 Legal Research: Finding the Law	17
Sources of the Law	19
Common Law	19
Statutory Law	19
Case Law	20
The Evolving Relationship Between Statutory Law and Case Law	20
Administrative Law	23
Finding the Law	24
Statutes	24
Court Cases	24
Administrative Laws	26
Restatements/Hornbooks/Legal Encyclopedias/Case Digests	26
Law Review Articles	26
Primary vs. Secondary Sources	27
Shepardizing: Updating the Law	27
Computerized Legal Research	31
Final Thoughts	32
Key Terms	33
Review Questions	33
Legal Challenge Web Sites	34 34
3 Briefing a Case	35
What Is a Case Brief?	26
What Is a Case Brief? Why Are Case Briefs Important?	36 37
How Is a Case Briefed?	38
Facts	38
Issue	39
Question of Law vs. Question of Fact	41
Briefs Based on Appeals Rather Than Trials	41
Holding	42
Length of the Holding	43
Reasoning	44
Examples of Case Briefing	44
Ĉulver v. Culver	44
Sample Case Brief	47
The Structure of a Case	48
Concurring and Dissenting Opinions	50
People v. Scott	52
Sample Case Brief	58

xi

Final Thoughts	60
Key Terms	61
Review Questions	61
Legal Challenge	61
Web Sites	61
4 Legal Writing: Basic Organization	63
The Four-Part Legal Answer	64
Importance of Organization	66
The Memorandum of Law	70
Format	72
Sample Memorandum	78
The Importance of Good Writing	82
Make Sure Your Reader Understands Your Writing	84
Make Sure Your Writing Does Not Mean Something Else	87
Use Simple Language and Keep It Short  Key Terms	88 90
Review Questions	90
Legal Challenge	91
Web Sites	91
5 Introduction to Law	93
Substantive Law and Procedural Law	93
The Basics of a Lawsuit	95
Pleadings	95
The Complaint	95
Summons	96
Answer	97
Motions and Other Pleadings	99 100
Discovery Jury Selection	100
The Trial	101
Opening Statements	103
Testimony by Witnesses	103
Motion for a Directed Verdict	103
Closing Arguments	104

xii Contents

Jury Instructions, Deliberations, and Verdict	104
Alternative Dispute Resolution	104
Negotiation	105
Mediation	106
Arbitration	106
Categories of Law: Civil and Criminal	107
Standard of Proof	108
Final Thoughts	109
Key Terms	109
Review Questions	110
Legal Challenge	110
Web Sites	110
6 Contracts	111
What Is a Contract?	111
Offer	112
Acceptance	113
Consideration	113
Defenses	114
Capacity	114
Minors	114
Illiterate Persons	115
Intoxication	116
Mental Incompetence	117
The Statute of Frauds	118
Sale of goods \$500 or more	118
Sale of land	118
Marriage	119
An Agreement That Cannot	
Possibly Be Completed Within	110
One Year	119
A Contract to Pay or Be	
Responsible for a Debt or	100
Something of Value	120
Illegality	121
Duress	122
Recognizing a Contract When You See One	123
Detrimental Reliance	125
The Reasonable Person Standard	126
Final Thoughts  Key Terms	128 130
INCH I CI III O	130

Review Questions	130
Legal Challenge Web Sites	131 131
vice sucs	131
7 Torts	133
What Is a Tort?	134
Intentional Torts	135
Assault	135
Battery	137
What Is Intent?	139
Defenses	141
Nonintentional Torts	143
Negligence	143
Duty	143
Reasonable Care	144
Breach	144
Harm	144
Actual Cause	145
Proximate Cause	146
Summary	147
Contributory and Comparative Negligence	147
Strict Liability	148
Products Liability	148
Wild and Dangerous Animals	149
Abnormally Dangerous Activities	150
Defenses to Strict Liability	150
Assumption of Risk	150
Harm Not Resulting from Specific Danger	151
Defamation	153
Intent or Negligence	154
Public vs. Private Figures	154
Publication to a Third Person	155
Damage to a Person's Reputation	156
Libel vs. Slander	157
Criminal Activity	159
Loathsome, Communicable Disease	159
Sexual Misconduct	159
Unfitness to Conduct Profession	159
Defenses to Defamation	159
Final Thoughts	160

	<b>~</b> , ,
XIV	Contents
/\! V	Contents

Key Terms	162
Review Questions	162
Legal Challenge	162
Web Sites	163
8 Criminal Law	165
What Is Criminal Law?	166
Malum in Se vs. Malum Prohibitum	166
Felony vs. Misdemeanor	169
Criminal Mental States	169
Substantive Crimes	172
Homicide	172
Murder	172
Intent to Kill	173
Intent to Cause Serious	
Bodily Harm	173
Reckless Disregard of Such	
Death or Serious Bodily	
Harm	174
Commission of a Felony or	
Immediate Flight Thereof	175
Voluntary Manslaughter	176
Imperfect (Unreasonable)	
Self-Defense	176
Adequate Provocation with	
No Cooling-Off Period	177
Involuntary Manslaughter	178
Criminally Negligent	
Homicide	178
Homicide Resulting from	
Misdemeanors or	
Nondangerous Felonies	178
Arson	180
Larceny	183
Robbery	186
Burglary	190
Conclusion	194
Attempt	194
Defenses	196
Self-Defense	196
Duty to Retreat	197
Minors	198
Minors Under 7 Years of	
Age	198

Contents xv

	Minors Ages 7 to Under 14	198
	Minors 14 or Over	199
	Criminal Capacity vs. Criminal Guilt	199
	Duress	200
	Insanity	201
Fin	nal Thoughts	204
	Key Terms	205
	Review Questions	205
	Legal Challenge	205
	Web Sites	206
9	Ethics	207
Eth	nical Conduct	208
	Who Is Actually Regulated?	209
	May Paralegals Give Legal Advice?	210
	Confidentiality and the Attorney/Paralegal-Client Privilege	211
	Conflict of Interest	213
	Zealously Representing Clients Within the Bounds of the Law	215
	Sharing Legal Fees	216
	Legal Advertising and Solicitation	218
	Competence	218
Int	regrity	220
	Key Terms	221
	Review Questions	221
	Legal Challenge Web Sites	221 222
10	Careers	223
Ty	pes of Legal Employment	223
	Size of the Law Firm	224
	Types of Careers	225
	Private Law Firms	225
	Public Law	226
	Corporate/In-House Practice	226
	Nonlegal Careers	226
Tip	os for Gaining Employment	228
	Temp Agencies	228
	Internships	228

xvi ————————————————————————————————————	Contents
Key Terms Review Questions Legal Challenge	230 230 231
Web Sites	231
Afterword: Is the Law for You?	233
Appendix A Being a Paralegal	235
What Is a Paralegal?	236
What Do Paralegals Do?	237
Summarizing Court Cases and Other Court Documents	237
Filling Out Legal Forms	238
Preparing Drafts of Wills, Leases, and Other Agreements	238
Proofreading	240
Filing Papers in Court	240
Client Contact Legal Research	240 240
What Is the Difference Between a Paralegal and a	240
Lawyer?	241
How Does Someone Become a Paralegal?	241
If You Want to Become a Lawyer, Should You First	211
Become a Paralegal?	242
Final Thoughts	242
Key Terms	242
Review Questions	243
Appendix B The Constitution of the United States	245
Appendix C The Emancipation Proclamation	265
Appendix D Court Cases	267
Appendix D Court Cases	207
Johnson v. Johnson People v. O'Keefe	267 268
reupie v. O Reeje	208

Contents	xvii
Contents	XV

nielson v. Board of Higher Education	270
te of North Dakota v. Torkelsen	278
own v. Board of Education	287
e v. Wade	294
sh v. Gore	337
nzales v. Carhart	345
ppendix E Ethics Codes	385
tional Association of Legal Assistants (NALA) Code f Ethics and Professional Responsibility (2007)	385
tional Federation of Paralegal Associations	303
NFPA) Model Code of Ethics and Professional	
sponsibility	388
100 att 1	393
	403
ssary ex	