

University of La Verne College of Law
CONTRACTS
DOCTRINE, VALUES AND SKILLS
SYLLABUS
Fall 2018
Credits: 5

Professor:

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Teaching Fellows:

TBD

Office Hours:

Monday: 1:00 p.m.—4:00 p.m...
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BY APPOINTMENT

ABA Standard 310

This course is designed to satisfy the requirements of ABA Standard 310. Standard 310 requires that for each hour of in-class time, students spend two hours preparing for class (reading or completing class assignments or assessments).

Some Musings:

*“When we study law we are not studying a mystery but a well known profession. We are studying what we shall want in order to appear before judges, or to advise people in such a way as to keep them out of court. . . . People want to know under what circumstances and how far they will run the risk of coming against what is so much stronger than themselves, and hence it becomes a business to find out when this danger is to be feared. The object of our study then, is prediction, the prediction of the incidence of public force through *the instrumentality of the courts.*”¹*

*“The movement of progressive societies has hitherto been a movement from Status to Contract’ The conception of status, of an assigned place that each individual occupies in society, corresponds, indeed, to a state in which the rules are not fully general but single out particular persons or groups and confer upon them special rights and duties. The emphasis on contract as the opposite of status is, however, a little misleading, as it singles out one, albeit the most important, of the instruments that the law supplies to the individual to shape his own position. The true contrast to a reign of status is the reign of general and equal laws, of the rule which are the same for all, or, we might say, of the *rule of ‘leges’ in the original meaning of the Latin word for laws—‘leges’ that is, as opposed to the ‘privi-leges.*”²*

*“But man has almost constant occasion for the help of his brethren, and it is in vain for him to expect it from their benevolence only. He will be more likely to prevail if he can interest their self-love in his favour, and show them that it is for their own advantage to do for him what he requires them. Whoever offers to another a bargain of any kind, proposes to do this. Give me that which I want, and you shall have this, which you want, is the meaning of every such offer; and it is in this manner that we obtain from one another the far greater part of those good offices, which we stand in need of. It is not from the benevolence of the butcher, the brewer, or the baker, that we expect our dinner, but from their regard to their own interest. We address ourselves, not to their humanity but to their self-love, and *never talk to them of our own necessities but of their advantages.*”³*

¹ Justice O. W. Holmes, *The Path of Law*, 10 HARV. L. REV. 457 (March 25, 1897).

² Friedrich A. Hayek, *The Constitution of Liberty* (1960) (quoting Sir Henry Maine, *Ancient Law*, 151 (London, 1861) (bold emphasis added)).

³ Adam Smith, *An Inquiry into the Nature and Causes of The Wealth of Nations*, ed. Edwin Cannan (Chicago: The University of Chicago Press, 1976), Vol. 1, Book 1, Chapter II, pp. 17-18.

University of La Verne's Mission

It is the mission of the University of La Verne to provide opportunities for students to achieve their educational goals and become contributing citizens to the global community.

The University of La Verne shares four core values that promote a positive and rewarding life for its students through fostering a genuine appreciation and respect for:

1. A Values Orientation

The University affirms a philosophy of life that actively supports peace with justice, the health of the planet and its people. Therefore, in light of this affirmation, it encourages students to become reflective about personal, professional, and societal values. It also encourages values-based ethical behavior.

2. Community and Diversity

The University promotes the goal of community within a context of diversity. Therefore, it encourages students to understand and appreciate the diversity of cultures that exists locally, nationally, and internationally. It also seeks to promote appreciation and preservation of biodiversity by helping students understand the impact/dependence of human beings on their environment.

3. Lifelong Learning

The University commits itself to promoting education that facilitates lifelong learning. Therefore, it teaches students how to learn, to think critically, to do constructive research, and to access and integrate information in order to prepare them for continued personal and career growth.

4. Community Service

The University believes that personal service is a primary goal of the educated person. Therefore, it encourages students to experience the responsibilities and rewards of serving the human and ecological community.

College of Law Vision, Mission and Values

Vision and Mission

- Vision: La Verne Law is an incubator for innovation in legal education, thought, and advocacy for individuals passionate about serving their communities and promoting access and justice.
- Mission: The mission of La Verne Law is to guide our students in the discovery of law and self as they prepare for the practice of law or other professional careers. Our faculty of scholars and teachers is committed to creating an innovative, collaborative learning environment designed to develop the knowledge and skills relevant to achieving individual and professional success.

Our mission includes educating, and enhancing the professional lives of the members of the local, regional, national, and international communities we encounter—students, faculty, staff, administrators, alumni, members of the bench and bar, and others who pursue social justice.

Our mission is grounded in the core values of the University of La Verne—life-long learning, ethical reasoning and decision-making, diversity and inclusivity, and community and civic engagement.

Difference-making is our legacy.

Values & Principles

- University Values: As a College within the University of La Verne we adopt and endorse the University core values of Lifelong Learning, Diversity and Inclusivity, Community Engagement, and Ethical Reasoning
 - College of Law Core Principles and Values: As an institution dedicated to teaching and training the next generation of lawyers and leaders, we operate institutionally and individually on the principles of professionalism, innovation, ethics, student centeredness and community enhancement.
 - In our actions and interactions, we are and seek to be:
 - affirming,
 - respectful,
 - humble,
 - accountable,
 - committed,
 - inclusive,

- empathetic,
- responsive,
- passionate, and
- positive.

Module One (Following Instructions): Students will be tested on the first day of class. Students will be expected to identify the 10 behavioral values articulated in the College of Law Vision, Mission and Value statements referenced in this syllabus above. (10 pts.)

American Bar Association—Student Learning Outcomes:

Proposed ABA Standard 302. LEARNING OUTCOMES

A law school shall identify and publish the learning outcomes it seeks to achieve for its students. The learning outcomes shall, at a minimum, include competency to represent clients as an entry-level practitioner in the following areas:

- (1) Knowledge and understanding of substantive and procedural law;
- (2) Legal analysis and reasoning, legal research, problem solving, and written and oral communication in the legal context;
- (3) Exercise of proper professional and ethical responsibilities to clients and the legal system;
- (4) Other professional skills needed for competent and ethical participation as a member of the legal profession; and
- (5) Any other learning outcomes deemed by the school as important or necessary to meet the needs of its students and to accomplish its mission.

University of La Verne, College of Law Program Objectives:

- A. Upon completion of the program of legal education, students will possess the skills and knowledge to enable them to pass any bar examination of their choosing.
- B. Upon completion of the program of legal education, students will possess those skills to participate as respected members of the legal profession.
- C. Upon completion of the program of legal education, students will model ethical, responsible, and professional behavior.
- D. Upon completion of the program of legal education, students will embrace cultural differences and civic and community engagement.

University of La Verne, College of Law Program Learning Outcomes

1. Students shall demonstrate knowledge and understanding of substantive and procedural law.
2. Students shall demonstrate competence in legal analysis and reasoning.
3. Students shall demonstrate competence in conducting legal research.
4. Students shall demonstrate competence in problem-solving.
5. Students shall demonstrate competence in written and oral communication.
6. Students shall be able and motivated to exercise proper professional and ethical responsibilities to clients, the legal system, and the wider community.
7. Students shall demonstrate competent litigation skills.
8. Students shall demonstrate competent transactional skills.
9. Students shall apply cultural competency while exercising their legal skills.

Course Description:

Contracts—Doctrine, Values and Skills is a foundational course in the study of law. This course pursues a comprehensive experience in (1) the doctrinal fundamentals of contract law and (2) the values and skills necessary to achieve success in law school, and ultimately in the profession.

The doctrinal focus and portion of this course is organized around the cause of action for breach of contract. To prevail in a cause for breach of contract, one must first establish that a contract was in fact formed, overcome any potential defenses to its formation, establish that the contract contained promises that were not performed to which there was no justifiable excuse for nonperformance, and finally, that there is an available remedy for the non-performance. This course examines the necessary elements and underlying legal doctrine for such a cause of action.

The values and skills portion of the course is designed to bridge the gaps between college and law school by helping students adjust to the rigorous nature of legal education. This course will implement a “building block” approach and begin by introducing the student the skills necessary to achieve success in law school, including such skills as: (1) time management, (2) understanding the law school learning process, (3) understanding course frameworks, (4) critical reading and comprehension, (5) case briefing, (6) oral and written articulation of doctrine,

analysis, synthesis, (7) compiling course outlines, (8) professionalism, and (9) essay and multiple choice exam taking skills. These skills help students manage resources in the first year of school so that they can be more efficient and productive with their time and more effective in their doctrinal classes.

Required Textbooks for Doctrine:

Marshall & Daniel, Principles of Contract Law, Third Edition (2013)

Marshall & Daniel, Supplemental Workbook

Restatement 2nd of Contracts, Vols. 1—3 (Student Edition).

Selected Commercial Statutes for Sales and Contracts Courses (West 2013, 2014 or 2015 editions)

Strategies & Tactics for the Finz Multistate Method, 2nd Edition (Aspen Publishers)

Recommended Textbooks:

Jeff Ferriell, Understanding Contracts, 3rd Ed. (2nd Ed. is suitable)

Darrow-Kleinhaus, Suzanne, Mastering the Law School Exam (Thomson West, 2007)

Electronic Resources:

- Barbri - <http://www.barbri.com/home.html>
- Study Skills – <http://www.studygs.net/>
- Grammar Help – <http://www.arts.uottawa.ca/writcent/hypergrammar/>
- Law School Skills - <http://www.lawnerds.com/>

Course Specific Objectives/Learning Outcomes:

The primary objective of this course is to provide the student with the opportunity to develop competencies in knowledge and application of contract doctrine. Specifically, the student will be provided an opportunity to develop competencies in the following:

1. Reading comprehension and the ability to study, process and absorb legal writings and materials in an efficient and productive manner.

2. The identification, extraction and articulation of fundamental rules and doctrine relevant to contract formation and enforcement.
3. The discernment and spotting of issues relevant to disputes involving agreements/contracts.
4. The integration and application of legal doctrine to a set of facts and circumstances for the purpose of predicting outcomes of legal controversies involving contracts (the skill of applying legal doctrine to relevant facts within the context of a disputed issue for the purpose of formulating a legal conclusion.)
5. Oral advocacy and communication—the ability to engage in a public, Socratic conversation involving cases, controversies and legal principles pertaining to contracts.
6. Case briefing and the efficient dissection of legal opinions for the purpose of extracting generalized principles of law.
7. Synthesizing and organizing course content into a comprehensive, generalized course outline of the law of contracts.
8. Professionalism, Timeliness, and Diligence.

Course Reading Assignments:

See Appendix 2, attached hereto.

Performance Standards and Expectations:

Participation:

Students are expected to attend, engage and participate in each class session.

Parasitic Voyeurs will not be tolerated.

Timeliness and diligence are powerful skills/traits of a successful law student and professional.

Attendance, Participation, and Preparation: Attendance is mandatory by College of Law policy (see the below selection from the MAPP). Exam skills, like other skills, are best improved by practice and participation. Students will receive the full benefit of the course only by attending every class session and actively participating. Regardless of excuse, absences in excess of 25% of a class will result in the automatic exclusion of the student from that class. Excessive absences may result in an “F” for the class.

You are expected to be in your seats and ready to begin class promptly at the start of each class. Your failure to be timely could cost your client his case, and even his freedom. Everyone has to contend with unexpected contingencies (e.g., traffic, computer crashes, doctor appointments, etc.). Schedule your day such that you may manage such contingencies when they occur. Tardiness will affect your class participation grade and may even constitute an absence.

Plagiarism: Plagiarism is unethical and is prohibited by College of Law policy. A violation of this policy will result in a score of zero on the assignment and the student being reported to the appropriate law school office for investigation. Further, the student may receive a grade of no credit in the course. Plagiarizing may adversely affect your moral character determination with the state bar, and your future career. To avoid this possibility, students should keep in mind that assignments are submitted for academic credit and that academic practices may differ somewhat from those of practicing attorneys. Students should also review the Student Handbook to familiarize themselves with the College of Law Plagiarism Policy.

Collaboration: Students should complete each assignment alone unless expressly directed otherwise. Although the professor may at times direct class discussion about the issues raised by the assignments, students should not discuss them outside of class. This is a form of plagiarism. Except as specifically directed, students must not: (1) disclose any part of their work to anyone but their professor before submitting it; (2) review, comment on, or contribute to the writing of another student; or (3) have anyone else review, comment on, or contribute to their work.

Timely Completion of Assignments: All assignments are due by the stated deadline. **NO LATE WORK WILL BE ACCEPTED.**

Changes to Syllabus: The professor reserves the right change the syllabus as necessary to accomplish the course objectives throughout the semester. Students will receive notice of any changes made.

You are expected to be prepared prior to entering class. In this regard, you are instructed to prepare a written brief of each of the cases assigned in the readings. In the event your performance in class indicates you are not prepared, you will be asked by the professor to turn in your written brief for review. In the event you fail to have a brief to turn in for review, you will immediately be marked absent for that class. Upon review of your brief, the instructor maintains the discretion to declare you unprepared for class and mark you absent. Your brief is exactly that: **YOUR BRIEF!** Plagiarism is a violation of our honor code. All briefs must be the consequence of the

student's individual effort. Use of canned briefs or the adoption of briefs written by others is prohibited.

Student participation and classroom contribution will be assessed on the student's demonstrative knowledge, comprehension, application and communication of the topics assigned for each class. The following assessment matrix will be used during each class throughout the year for the purpose of assessing student performance and contribution.

Student			
Participation	Competent	Satisfactory	Lacking Competence
Facts			
Procedure			
Issues			
Holding			
Rule			
Court's Reasoning			
Written Brief			

Briefing:

You will periodically and randomly be required to submit your briefs for assessment. They must be typewritten and demonstrate effort. You are required to bring them to class. In this class, your brief must provide: (1) the style, citation and identify the court whose opinion is being briefed; (2) facts relevant to understanding the doctrinal features and ultimately holding in the case; (3) the procedural status of the case being briefed; (4) the issue(s) in question and relevant to our classroom purposes; (5) the court's holding with respect to the issues identified; (6) an explanation of the court's reasoning; and (7) the identification and extraction of the contract doctrine relevant to our general and comprehensive understanding of the contract law.

Your brief serves as a tool for you to engage in a substantive dialogue with your professor and classmates. Its content therefore should contain all that you require to competently participate in classroom discussion. I have no expectations with respect to its length, as long as it is an effective tool for you to participate and

engage. I do expect your briefs to be organized in accordance with the following rubric.

Style Citation Court	
Facts:	See: John Delaney, Learning Legal Reasoning (2006)
Procedural History:	
Issues:	
Holding	
Judgment	
Reasoning	
Doctrine	Articulation and extraction of jurisprudential doctrine for outline

Use of Laptops. I pads, Smart/cell phones:

The study of law is a very complex endeavor and requires your undivided attention. Electronic devices, in their proper time and place, can assist you with learning, but the misuse of these devices is a distraction that can negatively impact the learning process. Please be prepared to take notes by hand in class. As such, the use of laptops, I Pad, smart/cell phones, and other electronic devices are **PROHIBITED** in this class unless expressly permitted! If you believe you are entitled to an accommodation due to a disability, please contact the Registrar or Director of Student Services to complete the accommodation paperwork. If you want to read about laptops in the classroom, please go to TWEN/Course Material/Extra Reading and read The Pen is Mightier than the Keyboard.

Mindfulness Exercises:

Law school is very stressful for most new students. During Orientation, you will be learning about the concept of Mindfulness and you will be introduced to techniques to center yourself in the present. Our mindfulness exercises are not tied to any religion or religious/spiritual beliefs; rather they are solely used to enhance learning. At the start of each class, we will do a 1 minute mindfulness exercise designed to help you develop concentration skills and stress reducing techniques. During this exercise, you will be asked to sit quietly and focus on your breathing and the present moment. Please be respectful of those around you and refrain from excessive movement and noise. If you are not in the classroom at the start of the mindfulness exercise, do not enter the room until it is over. If you want to learn more about mindfulness and law school, please go to this website: <http://themindfullawstudent.com/> or go to TWEN/Online Class Resources.

Assignment Descriptions and Rubrics:

One of the most important soft skills an attorney can develop is the ability to follow directions precisely. All of the assignments you will have in this class and most other classes and the bar examination, will involve an assessment of your ability to follow directions. Assignment rubrics are basically detailed descriptions of how your assignments will be assessed and they instruct you as to what you must do in order to receive the desired grade. I strongly recommend that you review the assignment descriptions and rubrics carefully and adhere to them as closely as possible to insure that you meet the assignment criteria...

Grading, Assessments and Exams:

Class Participation (5%)

Students are expected to attend, engaged and participate in each class session. Parasitic Voyeurs will not be tolerated. Timeliness and diligence are powerful skills/traits of a successful law student and professional.

All students commence the course with a “4” in class participation. Each time a student is determined to be unprepared for class and such unpreparedness impedes the student's ability to participate in meaningful class discussion; the student's grade will be lowered one step. For example, upon being determined unprepared and non-participatory for the first time, the student's grade of 4 will be lowered to a 3.5. And upon the second time, his or her 3.5 will be lowered to a 3.0. And upon the third time, his or her 3.0 will be lowered to a 2.5 and so on. See the following table for the designated numerical steps.

4 pt. Scale
4
3.5
3
2.5
2
1.5
1
.5
0

Exam (75%)

Your final exam grade constitutes 75% of your final aggregate semester grade in the course. The exam experience is comprehensive, and cumulative. At the end of the semester, you will be expected to address any issue/doctrine referenced in the table of contents of your textbook or covered in class. Your exam will consist of an essay section, a mini-performance exam section, and a multiple choice section. The weight of each exam section will be determined by the professor and noted on the exam.

The assessment of the student's performance on the essay portion of a semester final exam will be grounded on the student's ability to demonstrate his or her competency with respect to (1) issue spotting and articulation, (2) rule articulation, (3) analysis/application of doctrine to facts, and (4) conclusion.

Assessments (20%)

Additionally, you will be given additional graded assessments throughout semester which constitute 20% of your aggregate final semester grade. Your unexcused failure to sit for or participate in any of the exams or assessments with respect to any aspect of this course or to perform any assigned assessment (whether graded or not) will jeopardize your grade in the class. Thus, you must begin preparing now!

Assessments	Weights
Module 1-- Following Instructions Assessment	10%
Module 2-- Formation Assessment	10%
Module 3-- Defenses Assessment	10%
Module 4--Performance/Breach Assessment	10%
Module 5--Remedies Assessment	10%
UCC--Subject Assessment	10%
Brief Assessment	10%
Outline Assignment	10%
Time Management Assignment	10%
Miscellaneous Assignments- Quizzes/Amps/Reflections	10%

Course Outline Assignment 10 pts. (Due October 3, 2016)

Students are required to demonstrate their ability organize information learned during their studies into a course summary or outline. The course outline will serve as a personal study aid for you and should be compiled from your case briefs, class notes, and other course materials. You may include diagrams, charts, decision trees, etc. in your course outline. You may collaborate with study partners regarding the accuracy and completeness of your outline, but you must submit a work that is substantially your own. Your course outline is due in class **October 3, 2016 and should include information through September 26.**

Course Outline Rubric		
	Poor - 0	Good – 2.5 each
Organization		Outline format. Outline organization follows the Contracts Schemata presented in class.
Rules		Doctrinal rules are clearly and precisely articulated. References source of doctrine (Cases, Restatements, UCC) Incorporates the 4Es when appropriate: elements, explanation, examples, and exceptions (minority views).
Examples		Provides hypothetical examples when appropriate and helpful.
Relevance		Reflects doctrine assigned for or covered in class. Grounded on shared experience in class (and not commercial outlines or Barbri outlines) Provides comprehensive review for preparation for final.

Time Management/Study Plan Assignment 10 pts (Due August 22, 2016).

Time Management/Study Plan Assignment Objective: Self-regulated learning requires good time management, planning, and organization skills. This assignment is designed to help you create and maintain a useful study plan throughout the semester. You may choose to use the same format for your other courses.

Time Management/Study Plan Assignment Instructions (Due August 22, 2016): Create study plan for the balance of the course. The study plan should be in a weekly calendar format, beginning the week of August 22, 2016 and should

incorporate class prep and study activities. The study plan should contain daily entries for the tasks you plan to accomplish on those days; however, this does not mean that every day must have an entry. The schedule should also include the following content:

1. Class lectures dates and times
2. Preparation/Study time for each class
3. Time devoted for review, organizing class notes, practice questions, etc.
4. Assignment Due Dates each class
5. Assessments Dates each class
6. Exam Preparation (Course Outlining/Review/)
7. Final Exam Dates

Time Management/Study Plan Assignment Grading Rubric: The study plans will be graded based on thoroughness of coverage, accuracy, and adherence to the assignment instructions.

Study Plan Rubric			
Criterion	Poor - 0	Good - 6	Excellent - 10
Completeness	Assignment turned in late or not at all.	Includes some of the content listed above in 1-5 but misses some important activities. Plan does not cover the entire semester.	Includes all content listed above in 1-5. Covers the entire semester.
Detail		Includes only general descriptions of the activity. Does not include specific days or times for the activities.	Includes the specific days and times for each activity and a precise description of the activity.
Adheres to assignment instructions		Adheres to some, but not all of the directions in the assignment description.	Precisely and completely adheres to all directions in the assignment description.

Final Exam:

The Final Exam component will constitute 75% of your grade. The assessment of the student's performance on the essay portion of the semester final exam will be grounded on the student's ability to demonstrate his or her competency with respect to (1) issue spotting and articulation, (2) rule articulation, (3) analysis/application of doctrine to facts, and (4) conclusion.

Exam Rubric	Command (90-100%)	Component (70-89%)	Emerging Competence (50-69%)	Lacing Competence (0-50%)
Issue Identification & Articulation (20% Weight)				
Rule/Doctrine Articulation (35% Weight)				
Analysis (Integration of Doctrine with Facts for the purpose of operationalizing a proper conclusion) (35% Weight)				
Conclusion (10% Weight)				

A student's ability to communicate both orally and in writing is a critical skill for any successful lawyer. Success with respect to the above referenced competency necessarily requires the student to be able to demonstrate such competencies in written form. Poorly and written exams will impact a student's ability to demonstrate competencies in issue identification, rule articulation and analysis. See Essay Writing Rubric attached hereto for more precise and detailed explanation of performance expectations.

The final exam may also include a performance/exam style section, as well as multiple-choice section.

Final Grades:

Grading (Weighting)	
Class Participation	5%
Assignments, Assessments, Exercises	20%
Final Exam	75%
Aggregate Course Grade	100%

Communication:

You are invited to contact me at any time. If you need an appointment, I will make myself available Monday through Sunday, at a mutually convenient date and time. I strongly encourage you to e-mail or text me. It is one of the most effective means of contacting me after school hours. If you have a problem relevant to our class, **DO NOT WAIT UNTIL YOUR PROBLEM EVOLVES INTO A CRISIS TO COMMUNICATE WITH ME.**

Although I have regularly posted office hours, I recommend that you make an appointment with me to assure my availability. Office hours are on a “first come, first serve basis.” It is not uncommon for a student to attempt to see me during office hours and find me already engaged with another student. Accordingly, the best practice is to schedule an appointment with me for a fixed time and date during either my office hours or another time and date which is otherwise mutually more convenient.

Manual of Academic Policies and Procedures:

All students are instructed to review and are assumed to have acknowledged and adopted the terms and conditions of the College of Law’s Manual of Academic Policies and Procedures

Disability Accommodations:

Students with disabilities should refer to the policies described at the University of La Verne Disabled Student Services Handbook [as of September 13, 2017 located at <https://sites.laverne.edu/disabled-student-services/disabled-student-services-handbook/>], which can be found on the website of the University of La Verne Disabled Student Services website (<https://sites.laverne.edu/disabled-student-services/disabled-student-services-handbook/>) or at their office. Temporary accommodations are offered on a case-by-case basis. All required documentation must be submitted by the student before any formal accommodations and should be made directly to the Director of Student Affairs.

Any student eligible for and requesting academic accommodations due to a documented disability (or a suspected disability) is asked to contact the College of Law Director of Student Affairs and Americans with Disability Act Compliance Officer, Akita Mungaray by email at amungaray@laverne.edu or by phone at (909) 460-2017. Her office is located on the first floor of the College of Law, Office # 107. You can also contact Cynthia Denne at the University of La Verne Disabled Student Services office at (909) 448-4441. The office is located at the La Verne campus Health Center. In order to be considered for accommodations, disabilities must be documented and the proper medical evaluations must be submitted. The office is here to help you succeed in law school. Visit it online at <https://sites.laverne.edu/disabled-student-services>

Disclaimer:

The professor reserves the right to make correction, changes, and other alterations to the syllabus, course requirements, and other elements contained herein. Such changes will be communicated to the students in either a regular class session or other appropriate means (e.g., email). All matters pertaining to student rights and responsibilities as outlined in the ULV catalog are adopted herein.

**ADDITIONAL TEMPLATES
&
RUBRICS**

CASE BRIEFING TEMPLATE

Case Purpose:

Case Name:

Plaintiff:

Defendant:

Appellant:

Appellee:

Citation:

Key Facts:

Procedural History:

Issue:

Reasoning/Rationale:

Rule:

Analysis

Rule

Analysis

Holding/Conclusion:

Judgment:

CASE BRIEFING RUBRIC

CRITERIA	Good Brief	Promising	Needs Work
CITATION	Includes (i) parties' names; (ii) volume #, name and page # of reporter (iii) the court that decided the case and (iv) the year the case was decided. Citation is present and correct. Case can be located with ease.	Citation is present but is wrong or incomplete. Case may be located, but with moderate difficulty.	Citation is missing altogether or is incorrect. Case could not be located using citation given or may be located with great difficulty.
FACTS	Concisely states all the relevant/legally operative facts (those used by the court in its analysis of the rules) of the case and identifies who is suing whom and for what.	Contains most of the relevant facts (those used by the court in its analysis of the rule(s)) and gives a basic idea of who is suing whom for what.	Contains many irrelevant facts or misses relevant facts; does not identify who sues whom and for what.
PROCEDURAL HISTORY/ISSUE	Procedural history is correct. Clearly states how case got to appellate court and correctly states what procedural issue is before the court.	Procedural history or posture is present but incorrect or incomplete; procedural issue is generally correct.	Procedural history or posture is missing or incorrect; Procedural issue is missing or incorrect.
ISSUE	Issue is one concise sentence that contains a rule/element <u>and</u> at least one fact that is relevant to that rule, and is framed in the form of a question and is easily understood by one who has not read the case.	Issue is not as concise as could be, but is one sentence; is not framed as question and/or is difficult to understand. Contains a rule, but no facts.	Issue is too long or more than one sentence; contains facts, but no law; is not framed in the form of question (conclusory); and/or cannot be understood by someone who has not read the case.
HOLDING	Holding is complete and concise and clearly answers/mirrors the issue as a statement.	Holding is mostly complete; is not limited to procedural disposition (judgment); but fails to answer/mirror the issue.	Holding is incomplete; is limited to a yes or no or to the procedural disposition or fails to answer/mirror the issue.
RATIONALE	Rationale contains the rule of law and/or test used by the court, the logic/relevant facts employed by the court, the method used by which the court supported its holding; is concise, but clearly and thoroughly lays out the court's reasoning.	Rationale addresses rule of law and/or test used but is not concise or clear; does not include the key facts used by the court or only partially addresses the logic or the method used by the court.	Rationale is incomplete-fails to address rule or law, any of the key facts or analysis, or method used by court.

ESSAY WRITING RUBRIC

Component	Exceeds Expectation	Meets Expectation	Below Expectation	Far Below Expectation
Issue Spotting	Student correctly identified 100% of the issues.	Student correctly identified at least 75% of the issues.	Student correctly identified between 50% and 75%, of the issues.	Student correctly identified less than 50% of the issues.
Issue Statement	The issue statement is a yes or no question (or uses the word "whether"), contains one rule/element, and contains facts that are relevant to the rule/element.	The issue statement contains one rule/element, but no relevant factual component; it is a yes or no question (or uses the word "whether").	The issue statement contains only relevant facts, but no legal component and is a yes or no question (or uses the word "whether").	This issue statement is missing.
Rule Statement	The rule statement begins with an accurate, complete prima facie (general) rule, then breaks the rule into accurately defined elements.	The rule statement is accurate and complete and breaks down and defines some, but not all of the elements.	States the general rule only or the rule statement is incorrect or incomplete.	The rule statement is missing.
Analysis	<p>The analysis:</p> <ul style="list-style-type: none"> identifies <u>all</u> relevant facts; explains how the key facts prove or disprove the rule element; includes the word "because" or other comparable word; includes transition terms such as "here," "Plaintiff/Defendant will argue," etc.; fully addresses issues in the fact pattern; includes relevant policy arguments. 	<p>The analysis:</p> <ul style="list-style-type: none"> identifies at some, but not all of the relevant facts; accurately matches facts to a rule/element; explains how some of the facts prove or disproves the broader rule/element, but does not explain the nuances or distinctions triggered by the facts. 	<p>The analysis:</p> <ul style="list-style-type: none"> contains insufficient or irrelevant facts for analysis; omits a "because" or other comparable word of explanation; merely restates the fact and/or the rule, but does not actually apply the facts to explain the relationship; fails to address some of the legal issues in the fact pattern; 	<p>The analysis:</p> <ul style="list-style-type: none"> is completely missing; contains no relevant facts; draws a conclusion without linking any facts to the rule/element.
Counter-Analysis	<p>The counter-analysis:</p> <ul style="list-style-type: none"> is persuasive from the facts; contains transition words that indicate a counter-argument; responds to the same facts and rules/elements referenced in the analysis; 	<p>The counter-analysis:</p> <ul style="list-style-type: none"> is plausible; addresses or resolves most, but not all of the argument; responds to different rules or facts than those addressed in the argument. 	The writer attempted to force a counter-analysis where no plausible counter-analysis existed; or, the counter-analysis does not relate factually to the analysis.	A plausible counter-analysis exists, but is missing.
Conclusion	The conclusion follows the analysis and directly answers the question posed by each sub-issue. The overall conclusion directly and completely answers the call of the question(s) and contains a brief rationale.	The conclusion follows the analysis and directly answers the question posed by each sub-issue. The overall conclusion answers the call(s) of the question but does not contain a rationale.	The conclusion is incorrect or is implausible and is not resolve the question posed by the issue statement. The conclusion does not respond directly to the call of the question.	The conclusion is missing or is in direct conflict with the analysis; or, the conclusion is completely nonresponsive to the call of the question.
Writing Skill/Technique	The essay is in the proper IRAC order and format; it flowed logically using transition sentences and was free from grammatical and spelling errors. The essay has a natural flow due to the use of transition words. All instructions and directions (given before, during, or after the essay) were followed.	The essay structure is logical and analytical and follows IRAC. It contains minor grammatical or spelling errors. The essay's flow is choppy but definite due to transition words. All instructions were followed.	The essay's structure is loosely organized, and does not follow IRAC. Though narrative, the essay's flow is broken and difficult to follow. The hand writing is legible, but difficult to read. The writer missed key instructions.	The essay's structure is confusing and/or incoherent. The grammar or spelling is incorrect to the point of distraction. The hand-writing is illegible and unreadable. The essay is disorganized with issues discussed in multiple places.

