

PARA 250: REVIEW FOR TEST # 1

Chapter 1:

** Sources of Law: see Authority Charts

1. Case law: common law, judge-made law; based on precedent and principle of “stare decisis”
2. Statutes: enacted by legislatures
--usually command or prohibit behavior/acts
3. Constitution: fundamental governing document
4. Administrative regulations and decisions: from agencies
--quasi-legislative function: enacting rules & regulation
--quasi-judicial function: hrg officers and ALJ’s hearing & deciding cases
4. Executive branch: making treaties, executive orders

** Two types of authority

1. Primary : law
2. Secondary: non-law (explain, locate, or validate primary authorities)

** Three Weights:

1. Mandatory: must be followed
2. Persuasive: may or may not be followed (discretionary)

3. Non-authority: must not be followed

** Difference between reversing & over-ruling

Chapter 2: Federal & state court systems

** Jurisdiction: power to hear and decide cases

--diversity

--concurrent

--exclusive

** Federal Court Structure:

1. U.S. District Courts: federal trial courts

--at least one in each state

--original jurisdiction to hear federal civil and criminal cases

--courts report decisions to Federal Supplement (F. Supp. & F. Supp.2d)

Citation format:

United States v. Jones, 339 F. Supp. 2d 215 (D. N.D. 2003).

2. U.S. Circuit Courts of Appeal: intermediate federal appellate cts

--11 numbered and two (2) named circuits (Fed. & D.C.)

--courts report decisions to Federal Reporter: F., F.2d, F.3d

--appellate jurisdiction: limited to deciding if trial court erred in applying the law to the facts

Citation format:

Jackson v. Brown, 320 F.3d 811 (8th Cir. 2004).

3. United States Supreme Court: court of last resort

--has discretionary jurisdiction

-- 9 Justices (so 5 needed for majority)

-- cases reported in multiple sources

Official reporter: United States Reports : U.S.

Cite format: Roe v. Wade, 489 U.S. 722 (1970).

Unofficial reporters: West's (S. Ct.) and Lawyer's Co-op (L.E. 2d)

-- See page 193 in Bluebook for preference

State Court Structure: generally two levels: trial and appellate—Bluebook shows each state's appellate structure

Citation formats:

1. State has official reporter:

Johnson v. Sullivan, 101 Mass. 642, 415 N.E.2d 891 (1996).

2. State no longer has official reporter:

Black v. Brown, 972 N.W.2d 45 (Minn. Ct. App. 2002).

Chapter 3: Statutory Law

FEDERAL

** Review process for bill becoming law

** Statutes first published chronologically as they are enacted in:
U.S. Statutes at Large:
682 Stat. 305

** Statutes quickly codified (put into codes) arranged by subject matter

** Official code: United States Code : U.S.C.
--gov't published
■ law only
■ 50 titles
■ get into by Index

Cite form: 26 U.S.C. § 318 (2003)

--with pocket parts:

** Unofficial, annotated codes: same 50 titles & sections but contains the law “plus”: historical references, library references, cross-references to related statutes, case notes

** Review samples in text and note placement of title numbers and section numbers

** Updated by annual, cumulative pocket parts

** Get into through alpha index using search terms from your research issue

** Citation format:

26 U.S.C.A. § 318 (West 2004).

26 U.S.C.A. § 318 (West 2005 & Supp. 2009).

26 U.S.C.A. § 318 (West Supp. 2009).

STATE CODES:

--each state has unique system: check out Bluebook for statutory compilation

** Minnesota: Minn. Stat. : official code

Minn. Stat. Ann. : annotated code

** North Dakota: N. D. Cent. Code : annotated code

--- updated by annual, cumulative pocket parts

---get into through alpha Index

--- go into library and look over the lay-out for Minn. & ND codes

Citation format:

Minn. Stat. Ann. § 362.05 (West 2007)

N.D. Cent. Code § 10-01-05 (2005)

Chapter 4: Case Law

Review various elements of a case in your text (pp. 114-116)

** Headnotes and publisher's syllabus: valuable info there but should not be cited to or quoted from

** Majority opinion is what carries the weight of authority

** Cases are usually either M (mandatory) or P (persuasive), but may become N (non-authority) if case has been:

1. reversed
2. overruled

** Cases are published in reporters which are coordinated with Digests

- cases published chronologically as they are decided
- Advance sheets: soft-cover pamphlets with most recent cases

** Review regional reporters

** Official state reporters: Bluebook will indicate if discontinued

** Star-paging: technique to get cite for official reporter (U.S.) if working in unofficial reporters

** Parallel citation: same case, different location (resource)

** Briefing Cases:

1. Case name and citation (Bluebook format)

2. Procedural History:

Prior Proceeding:

Present Proceeding:

3. Facts: who did what to whom, when & where

4. Issue/s: legal question/s before the court

5. Holding/s: court's answer/s to the legal questions

6. Reasoning ; reasons behind the decision and what authority the court relied on

7. Disposition: procedurally—what happened?

--appellate court:

--trial court:

Chapter 5: Digests, A.L.R.'s

** Digests: case finders; coordinated with reporters

--review sample pages in text—Index, outline etc.

--get into through alpha index—use search terms from your research issue

--updated through annual, cumulative pocket parts

** A.L.R.'s : American Law Reports

■ annotations: analytical essays on legal topics or case or statute

■ state and federal were combined at first but separated later

■ A.L.R. 4th, 5th & 6th : cover state appellate cases and topics

■ A.L.R. Fed. & A.L.R.Fed. 2d : covers 1969 to present on federal cases & topics

■ Review sample pages—index, annotation excerpt

■ Updated in minor ways by pocket parts

- updated in major ways by being superseded: check out Annotation History Table (last index volume)

**Citation format: Rule 16.6.6

Francine L. Harris, Annotation, The Battered Spouse Syndrome as a Defense in Manslaughter Cases, 96 A.L.R. 4th 797 (1988).