Chapter 3

Reading for Comprehension

§3.1 Reading Statutes
§3.2 Reading Judicial Opinions

Reading the law is not always a natural, intuitive process. Instead, good legal reading is a learned skill that requires you to read efficiently while deeply comprehending the materials. Getting the gist of the idea is not enough.

To deeply comprehend a legal text, you must read that text *critically*. *Critical reading* is defined as "thinking while you read."[1] Put differently, critical reading means actively engaging each bit of information and questioning it rather than passively accepting every word as written.[2]

At the same time, you must read *efficiently*. Answering a legal question often requires wading through a number of statutes, cases, and other legal authorities. Thus, reading efficiently may require you to read quickly.

Those two goals—reading for comprehension and reading quickly—are often in conflict. Generally, the faster you read, the less you will comprehend. Conversely, the more you read for comprehension, the slower you will read. At the beginning of your legal career, you must focus on comprehension. The result will be that you will read more slowly. As you gain experience, your speed will pick up, and you will be able to read more quickly while still comprehending deeply.

To read for comprehension, follow these three steps: (1) Get context; (2) skim the text; and (3) read the text critically. Those three steps are explained in more detail in Table 3-A.

The most effective legal readers will usually repeat the third step—reading the text critically—multiple times. Reading legal authority is a recursive process that builds on itself. You may read a legal authority

1. Debra Moss Curtis and Judith R. Karp, *In a Case, In a Book, They Will Not Take a Second Look: Critical Reading in the Legal Writing Classroom*, 41 Willamette L. Rev. 293, 296 (Spr. 2005).

2. *Id.* at 299.

Table 3-A • Three steps when reading for comprehension

1. Get context.	Figure out the who, what, when, where, why, and how of the material: • Who are the key parties? • What are you reading? • When was it written? • Where is its position in the body of law? • Why is the authority important—is it controlling or persuasive authority? • How does the authority analyze the issue?
2. Skim the text.	Get a comprehensive overview of the substance before you get into the details.
3. Read the text critically.	Read slowly and closely, thinking about the purpose of each word or phrase and how the substantive parts fit together. Questions that lawyers typically ask include these: • Which portions of the text are relevant to my client's legal issue and which are not? • How do those relevant portions affect my analysis? • How does this authority fit in with the other authorities I am reading? Is it consistent with those authorities? Does it expand on what other authorities have said or merely repeat the same concepts?

fairly well the first time; however, you will see things in a case or statute during your third or fourth read that you did not see the first time. As you analyze other authorities that address the same issue, you become a smarter reader. When you then return to a legal authority, you will be able to read it with greater depth and understanding.

The sections that follow—§3.1, *Reading Statutes*, and §3.2, *Reading Judicial Opinions*—show how those three steps apply to reading statutes and case law (the legal authorities you are most likely to rely on in answering a client's question). By developing a systematic approach to reading statutes and case law, you will soon be reading more efficiently, and that deep comprehension will arrive more and more quickly.

Section 3.2

Reading Judicial Opinions

I. The Structure of a Judicial Opinion
   A. Preliminary Information
   B. The Facts
   C. The Court's Analysis
   D. Concurring and Dissenting Opinions
II. Reading a Judicial Opinion for Comprehension
   A. Get Context
   B. Skim the Case
   C. Read the Opinion Critically

To answer a client's question, you will also have to read cases. Often, a statute will provide the rule that governs your client's question, and case law will interpret the statute. Sometimes, however, an area of the law is governed by "common law"; that is, the area of the law is governed by case law only. Case law provides both the governing rule and interpretations of the governing rule. In either case, you will need to read, dissect, and analyze prior cases. This chapter addresses how to engage in that process as effectively as possible.

I. The Structure of a Judicial Opinion

A judicial opinion explains the dispute before the court, the legal questions the dispute raises, and the ruling the court has made on the legal questions. A judicial opinion typically contains four parts, each of which performs a function: preliminary information, the facts, the court's analysis, and any concurring or dissenting opinion. To see these parts, look at Figure 3.2-A.

Figure 3.2-A • A reported case*

Citation →

847 A.2d 827

Caption →

Supreme Court of Rhode Island.
Cheryl DOWDELL
v.
Peter BLOOMQUIST.
No. 2002-630-Appeal.
March 15, 2004.

Synopsis →

Background: Homeowner sued neighbor for planting trees on his property in violation of spite fence statute. The Superior Court, Washington County, Gilbert v. Indeglia, J., entered injunction against neighbor. Neighbor appealed.

Holdings: The Supreme Court, Flaherty, J., held that:
(1) in a matter of first impression, row of trees was a "fence" under spite fence statute; (2) privacy was insufficient justification for presence of trees; and
(3) injunctive relief was appropriate relief not prohibited by statute.

Disposition → Affirmed.

Flanders, J., concurred in part, dissented in part, and filed opinion.

Preliminary information includes the caption, synopsis, and headnotes.

West Headnotes

[1] Appeal and Error
30XVI Review
30XVI(I) Questions of Fact, Verdicts, and Findings
30XVI(I)3 Findings of Court
30k1008 Conclusiveness in General
30k1008.1 In General
30k1008.1(1) k. In General.

Factual findings are entitled to great weight and will not be disturbed by reviewing court absent proof that they are clearly wrong or that the trial justice overlooked or misconceived material evidence.

A headnote →

[2] Appeal and Error
30XVI Review
30XVI(I) Questions of Fact, Verdicts, and Findings
30XVI(I)3 Findings of Court
30k1008 Conclusiveness in General
30k1008.1 In General
30k1008.1(4) k. Credibility of Witnesses; Trial Court's Superior Opportunity.

Credibility determinations are entitled to great weight and will not be disturbed by reviewing court absent proof that they are clearly wrong or that the trial justice overlooked or misconceived material evidence.

* This sample case is based on *Dowdell v. Bloomquist*, 847 A.2d 827 (R.I. 2004). It has been edited. Individual edits are not noted in the text.

...

OPINION: Flaherty, J.

The official opinion begins here.

The plaintiff, Cheryl Dowdell, brought this action in Superior Court alleging that the defendant, Peter Bloomquist, planted four western arborvitae trees on his Charlestown property solely to exact revenge against her, to retaliate by blocking her view, and in violation of the spite fence statute. The presiding Superior Court justice found that the trees were planted to satisfy defendant's malicious intent, not his pretextual desire for privacy. The trial justice granted plaintiff injunctive relief. We affirm the judgment of the trial justice.

The court begins by explaining the facts of the case—both procedural and historical.

The first paragraph of the opinion explains procedural facts, while the second paragraph explains historical facts.

The facts pertinent to this appeal are as follows. The parties' homes are on adjoining lots. Dowdell's home sits at a higher elevation than Bloomquist's and has a distant view of the ocean over the Bloomquist property. In June 2000, defendant acquired the home from his mother. Prior to that time, the Dowdell family had an amicable relationship with defendant's mother. Change was in the wind in the fall of 2000, however, when defendant petitioned for a zoning variance seeking permission to build a second-story addition to his home. The plaintiff expressed concern about the petition, anxious that the addition would compromise her view of the Atlantic Ocean. For six months the parties argued before the Zoning Board of Review as to the merits of the addition. As a result, the relationship between the neighbors became less than friendly. In March 2001, defendant began clearing land and digging holes to plant the disputed trees in a row between their homes. In April, defendant's counsel sent a letter to plaintiff warning her against trespassing onto the Bloomquist property. In May, one day after the zoning board closed its hearing on defendant's variance request, defendant began planting the four western arborvitae trees that now stand in a row bordering the property line. The forty-foot-high trees enabled little light to pass into Dowdell's second- and third-story picture windows.

The trial justice made a finding that the row of trees was a fence. He further found that the objective of privacy claimed by defendant was "no more than a subterfuge for his clear intent to spite his neighbors by erecting a fence of totally out of proportion trees." Hence, the trial justice found that the trees constituted a spite fence. He noted testimony that plaintiff's real estate values had depreciated by as much as $100,000. Bloomquist was ordered "to cut the four Western Arborvitae to no more than 6' in height and keep them at that level or remove them entirely with no more Western Arborvitae to be planted."

The court explains additional procedural history in the third paragraph.

This is the first occasion this Court has had to address the issue of whether a row of trees may be considered a fence within the meaning of the spite fence statute, § 34-10-20. We believe the trial justice properly referred to the definition of "lawful fences" found in the statute to understand the simple meaning and legislative intent behind its use of the word "fence." Based upon the language of § 34-10-1, a fence clearly includes a hedge. And based upon the expert testimony relied on by the trial justice, a row of western arborvitae trees may constitute a hedge. However, even if the trees were not a hedge per se, the spite fence statute refers to "[a] fence or other structure in the nature of a fence." The trial

The court addresses the first issue on appeal: whether a line of trees can meet the statutory definition of a "fence."

justice considered the proximity of the four trees that touched one another, and the broad span of sixty feet across which they spread, and rationally interpreted that the trees were a fence. We believe that the trees, when taken as a whole, fall well within the statutory definition of a "structure in the nature of a fence." This may not be the most optimal species for the creation of a hedge owing to their enormous stature and girth. However, it is specifically because of their towering presence, as well as their relative positioning on defendant's land, that we can consider the trees nothing less than a fence. What makes a spite fence a nuisance under the statute is not merely that it blocks the passage of light and view, but that it does so "unnecessarily" for the malicious purpose of annoyance.

The court reaches a holding about whether trees can be a fence in the second to last sentence of the paragraph. →

We next consider defendant's contention that the trial justice erroneously discounted defendant's testimony that the trees were erected for the beneficial purpose of privacy. Defendant relies on *Musumeci v. Leonardo*, 77 R.I. 255, 259-60, 75 A.2d 175, 177-78 (1980), for the proposition that when a fence is erected for a useful purpose, despite spiteful motive, no relief may be granted. We recognize that some useful purpose for a fence may render the victim of one even maliciously erected without a remedy. In *Musumeci*, this Court determined that a fence served the useful purpose of preventing water from entering the premises of the first floor of the complainant's house. Hence, because the purpose of the fence was not wholly malicious, it was not enjoined as a private nuisance. *Musumeci*, 77 R.I. at 258-59, 75 A.2d at 177.

Here, the court addresses the second issue on appeal: whether the trial court properly considered an affirmative defense.

However, based on the turbulent history between the parties, the provocative statements made by defendant, the notice of trespass letter sent to plaintiff, and the size, timing, and placement of the trees, we cannot say that the trial justice was wrong to give defendant's testimony little weight and to find his claim that the fence was installed to enhance his privacy lacked credibility. In the circumstances of this case, we agree with the trial justice that defendant needed to provide more than just privacy as justification for the fence. This is especially true when a row of smaller arborvitae already stood between the homes. As the trial justice noted, "Accepting privacy alone would simply result in the statute being rendered meaningless and absurd." The very nature of a fence is such that privacy could always be given as the reason for erecting it. In an egregious case such as this, where evidence of malicious intent plainly outweighs the discounted benefit claimed by defendant, the court correctly found defendant's actions to violate the spite fence statute.

The court reaches a holding about the second issue on appeal. →

Conclusion

For the reasons set forth above, we affirm the judgment of the Superior Court. The record shall be remanded to the Superior Court.

The court states its disposition.

A. Preliminary Information

At the outset of an opinion, you can find basic information about the case that can provide you with context for the details that will follow.

1. The caption

The caption is the case's title and sets out the parties. When listing the parties involved, the caption typically lists the full names of all the parties involved. In a civil case, the parties may be individuals, as in Example 3.2-B.

Example 3.2-B • Individuals in a civil action

Cheryl DOWDELL v. Peter BLOOMQUIST

The parties may include entities, as in Example 3.2-C.

Example 3.2-C • An entity in a civil action

WILLIAM HOWARD WEST, JR., and wife, CAROLYN SUE WEST v. KING'S DEPARTMENT STORE, INC.

In a trial court opinion, the caption also tells which party is bringing the suit. The person instigating a civil lawsuit, known as the "plaintiff," is listed first, and the party being sued, the "defendant," is listed second. For example, in Example 3.2-B, Ms. Dowdell is the plaintiff, and Mr. Bloomquist is the defendant.

In a criminal case, the prosecutor is the party instigating the suit and the defendant is the other party. If the prosecutor is the federal government, the caption might look like Example 3.2-D.

Example 3.2-D • Parties in a federal criminal action

UNITED STATES OF AMERICA, Respondent/Appellee, v. TIMOTHY JAMES McVEIGH, Movant/Appellant.

If the prosecutor is a state, the caption might look like the one in Example 3.2-E.

Example 3.2-E • Parties in a state criminal action

STATE OF OREGON, Appellant, v. FREDERICK WENGER, JR., Respondent.

On appeal, the caption will typically tell you which party is bringing the appeal. The terms "appellant" or "petitioner" follow the party who filed the appeal first. The terms "appellee" or "respondent" will follow the other party, who may also appeal some issues. The parties may not be listed in the same order on appeal as they were in the trial court. In

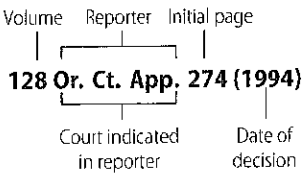
Examples 3.2-D and 3.2-E you can see captions that identify the appellant and respondent.

2. The citation

Near the case name (and at the top of the page in a reporter) you will see the official case citation. Citations are important because they explain where to find the case, the level of court deciding the case, and the age of the case.

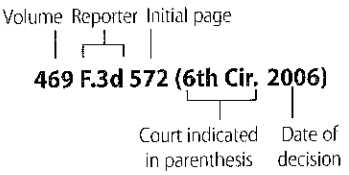
For instance, look at the two citations below in Figures 3.2-F and 3.2-G. Each citation tells you the reporter in which the case was published, the volume of the reporter, and the page of the reporter. In parentheses, the citation tells the court that decided the case (if the reporter's title does not already do so) and the year in which the court decided the case.

Figure 3.2-F • Citation tells reader where to find the case



The citation in Figure 3.2-F explains that the case is located in volume 128 of *Oregon Reports, Court of Appeals* on page 274. The case was decided by the Oregon Court of Appeals in 1994.

Figure 3.2-G • Citation components



The next citation, in Figure 3.2-G, indicates that the case is in volume 469 of the *Federal Reporter, Third Series*, at page 572. The case was decided by the United States Court of Appeals for the Sixth Circuit in 2006.

Notice that in a citation the court can be indicated in the reporter or in the parenthetical. If the deciding court is clear from the reporter, the court will not be indicated in the parenthetical. In Figure 3.2-F, the reporter's abbreviation indicates that the court is the Oregon Court of Appeals, and so no further information about the court is necessary in the parenthetical. If, however, the reporter contains decisions from many

courts and the reporter does not indicate the court and its level, the court will be indicated in the parenthetical. In Figure 3.2-G, the reporter, the *Federal Reporter, Third Series*, contains cases from many federal appellate courts; therefore, the parenthetical specifies that the Sixth Circuit decided the case.

3. The publisher's enhancements

(a) Synopsis

In case reporters, immediately after the caption and preliminary information, you will usually see a one-paragraph synopsis of the case. The synopsis describes the most basic issue and underlying facts, the disposition of the case in any lower courts, and the disposition of the case in the present court. While synopses are helpful tools for researching and selecting pertinent cases, they are *not* part of the judicial opinion and are not, therefore, law. These synopses are created by editors of the case reporters. While generally very helpful, a synopsis is not a complete summary of the case and, on occasion, can be inaccurate. You should never cite to a synopsis.

(b) Headnotes

In most reported cases, particularly all of the cases reported by the West Publishing Company, after the synopsis you will find headnotes. A headnote is a one-paragraph blurb for each point of law presented in the case. Headnotes act like a table of contents to the case and direct the reader to the portions of the case that address each point of law. Headnotes are also not part of the judicial opinion and cannot be cited. Nor should the content of the headnotes be quoted; instead, go directly to the portion of the opinion to which the headnote refers and use the official opinion.

Even after recognizing each part of an opinion mentioned above, understanding judicial opinions requires you to read critically.

4. The author of the opinion

At the beginning of the opinion, you can find the author of the opinion, noted by the author's last name, followed by the letter "J."

In federal jurisdictions, a single trial judge for a district court may issue a reported opinion. (In state trial courts, opinions are not published; instead, judges just render decisions on the record.) Appellate courts—whether state or federal—sit in panels of judges, usually consisting of three judges for intermediate appellate courts or five to nine (sometimes more) for the highest appellate courts in the jurisdiction. Judges vote on the outcome of a case, and one judge from the majority writes the opinion.

The letter "J" can stand for either justice or judge, depending on the court—usually "justice" refers to members of the highest court in a

jurisdiction and "judge" refers to members of the lower intermediate and trial courts. Occasionally, you will see other letter designations such as "C.J." for Chief Judge or Chief Justice and "S.J." for Special Judge. You will not likely need to use the name of the judge in your memoranda, but opinions written by well-known or prominent jurists may sometimes be more influential. At other times, knowing the writer of the opinion can give you insight into the author's ideology.

B. The Facts

1. Historical facts

Within the first few paragraphs of the opinion, a court will set out the story, or underlying events, of the case. The depth and clarity with which courts describe the facts varies. This section is important to read carefully because most cases are fact-driven, meaning the court's decision hinges on the facts before it. As you read the facts, look for clues as to which facts the court thought were most important. Often, a court will emphasize trigger facts, those facts on which its decision turns.

When a case examines more than one legal issue, you will have to determine which facts were critical to each issue addressed. Some attorneys read the fact section once and then again after reading the court's analysis. Doing so will allow you to distinguish critical, trigger facts from background facts and match the facts relevant to each issue.

2. Procedural facts

Along with the historical facts, a judicial opinion will also usually describe the legal path the case took after the plaintiff initiated the lawsuit. This information is called "procedural history." When describing the procedural history of a case, a court may explain the claims that were filed; motions that were made before, during, or after the trial; or any appeals that were brought. Within this section, the writing judge may also include information about the arguments each party made in the lower court and the lower court's opinion.

What the parties argued and what the lower court said are not part of a court's holding unless the court indicates that it is adopting those arguments. Be sure to note whether the appellate court is merely describing or actually adopting those arguments.

C. The Court's Analysis

1. The issue or issues

In a single opinion a court may decide many legal questions. An issue is one of the legal questions the court is asked to decide. An opinion typically addresses many issues, not all of which will be relevant to your

client's problem. Sometimes a court will clearly state the issues it will address and organize its opinion around those issues; other times, you will have to discern the issues the court addressed.

Take for example, Paul Adams's case, discussed in the memo in Chapter 1, *How Attorneys Communicate* (Example 1-A). If his case were to go to trial, the defendant might ask the court to decide one issue: whether Paul Adams's statement would be admissible against him.

To answer that question, the court has to answer a sub-issue: whether Paul Adams was stopped. If he was not stopped, then his statement was "mere conversation" and is admissible. Accordingly, to decide one issue, the court would have to answer at least two questions: "Was Paul Adams stopped?" and "Is his statement admissible at trial?"

Actual judicial opinions differ from the cases in law school textbooks because of the number of issues each addresses. In most textbooks, the author has edited the case so that the case describes just one legal issue illustrating one point of law. Every other part of the opinion not relevant to that one point has been edited out.

In practice, the cases you read will be unedited; they will contain multiple issues, and some of those issues may be quite long and complex. In unedited cases, you must discern which of the many issues in the opinion will be relevant to your case.

2. The rule of the case

The rule of the case is the point of law the opinion will represent to future cases.

Sometimes—over time—a case comes to represent a particular point of law. Before that time, however, attorneys may argue about the rule of law that the case represents. Only after attorneys have argued about it, and a subsequent court has stated how we should understand the case, can we be certain about the rule of the case.

Remember, too, that if a case addresses more than one issue—as most cases do—more than one rule can be derived from the case.

3. The holding or holdings

A holding of a case is the court's answer to one of the questions presented by one of the parties. Thus, for every legal issue you identify in a case, you should also find a holding.

Although the holding and the rule of the case resemble each other, the holding is tied to the facts of the case before the court. The rule of the case, on the other hand, is a general principle of law the case will represent in the greater body of law.

To make matters a little more complicated, courts often use the terms imprecisely, calling the holding a rule of the case or calling a rule of the case the holding. For example, if the court said, "We rule that Officer

James impermissibly stopped the defendant when the officer placed his hand on the defendant's shoulder and physically prevented him from leaving," the court's statement is a holding because it is tied to the particular facts of that case, even though the court used the word "rule."

On the other hand, the court may write, "We hold that a stop occurs when an officer uses a physical show of authority to keep a person from leaving." This general statement is really a rule of the case because it is not tied to the facts of the case but, instead, represents the point the case will stand for in the body of law.

Thus, to distinguish between a holding and a rule of the case, pay attention to the facts. A holding is tied to facts; a rule of the case is not.

4. Reasoning

The reasoning of the case is the analysis the court follows to get from an issue to its holding about that issue. For each issue, the opinion will assess the governing law—whether it comes from statutes, common law, policy concerns, or some combination of those authorities. Then, the court will apply that law to the facts of the case. The reasoning is the "meat" of the opinion, and it requires several careful and thorough readings.

5. Dicta

Dicta are assertions or statements by the writing judge on points that are not necessary to address an issue presented by a party. A common form of dicta is a hypothetical. Often, a court will assert that had one fact in the case been different, its holding would have been different. Since that fact was not before the court, the court's statement about that different fact is dictum. Courts have authority to decide only the issues before them; thus, dicta are not a binding part of the opinion. That said, dicta can sometimes be persuasive to a future court, and attorneys may rely on dicta as persuasive but not mandatory authority.

6. The judgment or disposition

The judgment or disposition appears at the end of the case and states the final action the court is taking on the whole case after considering all of the issues presented to it. For instance, the court may "affirm" or "reverse" the decision of any lower court in whole or in part; it could also "remand" the case back to the trial court for a new determination or further action on all or some of the issues; or, it could "dismiss" or "vacate" the case entirely.

D. Concurring and Dissenting Opinions

You will find concurring and dissenting opinions only in appellate court cases decided by a panel of judges. As noted earlier, after the judges

vote on the outcome of a case, one judge from the majority will write the opinion. However, other judges may also write to express their views on the analysis or the outcome of the case. If a judge agrees with the outcome but differs in the analytical approach—that is, if the judge differs in how to interpret the law or apply the law to the facts—that judge may write a concurring opinion. If a judge disagrees with the outcome of the case, he or she may write a dissenting opinion explaining why the majority was wrong or what the proper outcome of the case may be.

Concurrences and dissents question the majority's reasoning, whether in construing the law or applying the law to the facts. These concurrences and dissents can give you insight into the flip side of an argument.

Dissenting opinions are not part of the law and should not be relied on as mandatory authority in future analyses, though they can be used as persuasive authority. Typically, a concurrence is also not a part of the law. However, if the majority needs the vote of the concurring judge to remain in the majority, the concurrence may be considered part of the decided law.

II. Reading a Judicial Opinion for Comprehension

As you dig into a client's legal problem, one particularly challenging step is reading case law efficiently and effectively. Your research will often uncover a lot of case law that may be relevant to your client's legal problem. Your challenge is to move through those cases quickly, setting aside those cases that are not relevant and focusing on those cases that are relevant.

You can use the same three steps described above to manage the cases that you are reading: (1) Get context; (2) skim the case; (3) read the judicial opinion closely with your purpose in mind. Table 3.2-H on the next page provides an overview.

A. Get Context

The very first time you encounter a case, you will want to gather basic information about the case so that you can put the opinion in context. Initially, you should note the jurisdiction and the court that issued the opinion. Doing so will help you determine whether the opinion is binding or persuasive authority.

Note the year the opinion was issued so that you have a sense of whether this case is likely to represent the court's most recent analysis of the issue or if there is likely to be more recent analysis.

You might also want to verify whether the case is civil or criminal. Occasionally, a legal issue can appear in a civil or criminal case and you

Table 3.2-H • Reading a case for comprehension*

Step	Ask these questions
1. Get context for the case.	• Who are the parties? Individuals or entities? Private parties or the government? • Is this a criminal or civil case? • What is the jurisdiction? Federal or state? • What level of court wrote the opinion? Trial? Intermediate appeals? Highest appeals court? • What year was the case decided?
2. Skim.	Glean the basic information about the case so that you will have a framework of the issues presented and how they were decided. If you get the overall framework of the case in this step, you will be able to read more slowly with greater comprehension and depth of understanding in the next step. • What is the overall structure of the case? How does the court organize the discussion of the issues in the body of the opinion? • What are the key issues? • What is the basic, underlying factual dispute? • What are the key facts? (Start to get a visual image of the factual story.) • What is the procedural path the case has taken thus far? • What did the lower courts do? • What was the disposition of the case? • Look at the structure of the opinion again. Try skimming the first sentence of every paragraph. Do these sentences give you an outline of the court's reasoning?
3. Read the case closely and question it.	Now that you have a good framework of what the case does and says, you are ready to dig into the meat of the case. For each issue presented to the court, answer the questions posed below. • What was the governing law? Is it statutory? Common law? A combination of both? • What facts did the court rely on in making its decision? • Does the issue turn on particular facts, or is the court addressing a pure question of law—that is, is the court merely explaining what the law is? • Whose argument does the court appear to be following? A party's? The lower court's? Its own? • Does the court's interpretation of the law make sense? • Does the court's application of the law to the facts make sense? • Is the court's argument flawed? On what specific points? • What is the rule of the case? How will it apply to future cases? • Does the court include policy reasons for its decision? • Any concurring opinions? On what points do the judges agree? Disagree? • Any dissenting opinions? What does the dissenting judge object to in the majority opinion? Does the dissent's argument make more sense? • How does this case fit with other cases or governing laws on the topic? • What new words should you look up?

* These steps are adapted from Mary A. Lundeberg, *supra* note 3, at 428-29, and Appendix 1; Peter Dewitz, *Legal Education: A Problem of Learning from Text*, 23 N.Y.U. Rev. L. & Soc. Change 225, 240 (1997).

will want to consider whether an analysis of a legal issue in a civil case is equally applicable to that legal issue if it appears in a criminal context (and vice versa).

This first step will likely take place as you are still researching.

B. Skim the Case

After gathering that basic information about the text, you should skim the opinion. First, you must determine whether this case still seems relevant to your client's legal question. You do not want to waste your time closely reading a case that, ultimately, is not on point. If you determine that the case does seem relevant, then print the case out and get an overview of the case.

1. Determine relevance

To assess whether a case will be relevant to your client's legal issue, go directly to that part of the case where the court discusses the issue that is relevant to your client's legal problem. You can skim the headnotes to determine which part of the case is most relevant to your client's case and jump to that part of the case.

Once you are at the correct location in the case, read the court's analysis. Ask yourself these questions:

- Does the opinion add to your understanding of rules relevant to my client's legal question?
- Do the facts that the court relied on in its analysis seem similar to the facts in my client's case?

If the answer to either of those questions is "yes," you will want to put that case aside so that you can read it in more detail. Remember, you will want to review a case that is factually similar to your client's case even if the court's conclusion in the prior case does not favor your client's interest. You must be aware of and account for *all* the relevant law, not just the law that is helpful to you.

If, however, the case does not add to your understanding of the rules and the case is not factually similar, you may not need that case for your legal analysis. Before throwing that case away or deleting that case from your file, help yourself be more efficient. Make a note—either on the case or on a list of rejected cases—explaining why you have rejected the case. Getting into the habit of noting why you think a case is not relevant will save you a lot of time in the future. Often, as you research, you will see the same case again, but with so many cases, you may not remember whether you have read it or what it said. By noting your earlier decision to reject the case, you can avoid reading the case again. So, save yourself some time down the road by making a quick note about the cases you have rejected and why.

2. Print relevant cases

Once you have determined that a case is likely relevant to your client's legal issue, you should print that case out. Reading in print and reading online are different experiences. Online reading lends itself to simply scanning the text rather than absorbing the text because you can so easily scroll through the document.[7]

On the other hand, a physical document gives you a better sense of the document's beginning, middle, and end, and how the information in one location relates to information in another. Having a physical sense of how ideas relate to each has been shown to improve people's ability to comprehend and then recall the information.[8]

Studies have also shown that students comprehend text better when they read in print. One reason is that reading in print is less draining.[9] Reading in print does not strain the eye as reading on a screen does.[10] In addition, when reading in print, you avoid the distractions of hyperlinks.[11] Finally, highlighting and taking notes on the text is still easier in print than on a screen.[12] For all of these reasons, print your most important cases.

3. Get an overview of the case

If you decide that a case will likely be useful to your analysis, it is now worthwhile to invest some time and become more familiar with the details of the case.

Begin with the court's description of the facts. Your goal is to become familiar with the parties, their conflict, and the facts that will be relevant to the legal issues you are researching. If the case is relatively simple, you will likely read the court's entire description of the facts. If the case is more complex, you may find that there are too many details to absorb right away. In that case, you may want to do a combination of skimming and reading, focusing on those facts that seem most relevant to the disputed legal issues in your client's case.

Once you have a sense of who the parties are and which facts of their case are relevant to the legal issue you are researching, consider taking quick notes about the parties and their conflict. In a more complex case, you might draw a diagram of the parties and their relationships to each other.

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7. Ruth Ann McKinney, *Reading Like a Lawyer* 265 (2d ed. Carolina Academic Press 2012).

8. Ferris Jabr, *The Reading Brain in the Digital Age: The Science of Paper v. Screen* (Apr. 11, 2013) (accessed Aug. 13, 2014 at http://www.scientificamerican.com/article/reading-paper-screens/).

9. *Id.*

10. *Id.*

11. *Id.*; McKinney, *Reading Like a Lawyer* at 275.

12. McKinney, *Reading Like a Lawyer* at 268.

Finally, skim the rest of the judicial opinion to get a sense of the variety of issues that the court addressed and so that you can see which parts of the case will be most relevant to your client's legal question.

These steps will provide you with an understanding of the facts of the case, what the legal issues were, and how the court organized its analysis of those issues. In other words, you will have a framework within which you can begin to more closely examine the legal issues that are relevant to your client's question.

C. Read the Opinion Critically

Now, the real work begins. You must extract from the case the information that you will need to answer your client's legal question. To do so, you should ask yourself these questions:

- What rules will also govern my client's legal question?
- To what extent are the facts in this case similar to the facts in my client's case? To what extent are the facts different? Do those differences matter?
- How does this case fit in with other cases? Is the court's analysis in this case consistent with the analyses in other cases? Or does this court's analysis represent a shift in the way courts are approaching this legal issue?

As you read, you will extract that information, and that information will become the basis for your legal argument. Chapter 5, *Organizing Your Legal Authority*, explains in more detail how to extract this information in an organized and efficient way.

Practice Points

- To comprehend a case, follow these steps:
  1. Get context by determining the court, the jurisdiction, and the year in which the opinion was issued.
  2. Skim the case to determine its relevance to your client's issue and to get an overview of its structure and content.
  3. Read the case critically. Ask about the rules that will govern your client's legal question, whether the facts in the case are like the facts in your client's case, and how the case fits in with other cases you have read.