

2015 National Legal Research Teach-In Kit

Research Instruction & Patron Services Special Interest Section
American Association of Law Libraries

Advanced Legal Research Memo Assignment

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This is a two component research memorandum assignment distributed as the culminating paper for a 3 credit Advanced Legal Research course. The Research Memo assignment requires students to document their research process, including a comprehensive list of resources consulted, and then draft a 3-5 page research memorandum analyzing and applying the law to their factual scenario. The grading rubrics serve as assessment tools for evaluating and grading the research notes and memos.

Research Notes & Memorandum: due by 11:59 p.m., Tuesday, 12/2/14

You may use any sources available to you, but must ensure that your research is accurate and updated. Your submitted research notes and memorandum must be your original work product.

****The primary focus of this exercise is the completeness and accuracy of your research.****

1. Research Notes (10% of course grade):

1(a) Preliminary Case Analysis: provide a preliminary case analysis by listing the primary legal and factual issues for your scenario; identifying all applicable jurisdiction(s); and generating a list of key words & phrases for use during the research phase of this project.

1(b) Research Narrative and Resource List: (1) draft a one to two single-spaced page narrative description of your full research process for this project and (2) attach a list of all the sources you consulted while completing this assignment, including internet search engines and databases.

2. Memorandum (15% of course grade):

Draft a memo of between **three and five single-spaced pages** addressed to your supervising attorneys (Buckley, Morgan, and Botek) that **(1) summarizes the applicable law, (2) applies it to your factual scenario, and (3) identifies two relevant practice aids that may be helpful**. Cite the sources you rely upon using the Bluebook, 19th edition.

Select **one** of the two practice area tracks below:

Scenario 1 [litigation track]

Abe and Annette Campbell reside in Charlotte, North Carolina and have been married for nearly 36 years. They have two adult daughters, Aileen and Annabelle. Abe is a purveyor of fine soaps and travels often for work. Annette works part-time as a receptionist at a hair salon in Fort Mill, South Carolina. Abe always felt he had “married up” and adored his wife. Up until the past few years, both Abe and Annette believed they had a wonderful and solid marriage.

They have lived in the same house on Maple Leaf Drive for 10 years and their current neighbors are Brenda and Bob Smith. The Smiths have lived next door for about 5 years and have an “open marriage”. Ever since the Smiths moved in, Bob Smith began sending Annette flowers at work, repeatedly offering to help out around the house, and frequently stopping over in the evening when Abe was traveling (often with a bottle of wine). Annette and Bob would sit by the pool for hours, conversing and drinking. While Annette enjoyed and encouraged Bob’s visits, she denies ever having sexual relations with him. But, Abe recalls that he and Annette rarely had any disagreements until shortly after the Smiths first moved onto the block. Abe and Annette ceased having marital relations altogether about 4 years ago.

Six months ago, Annette met Caleb Downing when he started working as a hairdresser in her salon. Aileen, the Campbell's eldest daughter, told Abe she saw her mother and Caleb checking into a motel in Rock Hill, South Carolina together last month.

Abe and Annette still occupy the marital home together; however, at Annette's request, Abe began sleeping in the basement in July of 2014. Annette filed for divorce on September 26th, 2014 and has informed Abe that she intends to wed Caleb when everything is finalized. Initially brokenhearted, the more time he has had to think about it, the angrier Abe has become.

Abe now wants to know the following: (1) what legal recourse he has (aside from the impending divorce and property settlement), if any, against Bob, Caleb, and Annette; (2) an evaluation of his likelihood of success; and (3) a preliminary monetary damages estimate.

Scenario 2 [transactional track]

Abigail Baer is a stay-at-home mother of 3 children. Her husband, Allan, is a successful dentist. Before she quit to take care of her children, Abigail was the editor of the local newspaper in their hometown of Burkittsville, Maryland. For years, she has made quilts for friends and family because she enjoys the craft.

In 2011, Abigail opened an Etsy shop selling her custom quilts. On average, she makes and sells 3 to 5 quilts per year. She maintains a handwritten log of her transactions, which lists the name and address of each purchaser and the sold price; however, she does not track the cost of raw materials or perform any kind of profitability analysis. Abigail uses a spare bedroom in the family home to store her quilting materials and use her sewing machine. Its square footage comprises 175 sq. ft. of the Baer's 2,650 sq. ft. residence.

Abigail's income from this activity for the past three years:

2011: -\$247	[material expenses: \$513; gross income: \$266]
2012: \$1550	[material expenses: \$10; gross income: \$1560]
2013: \$7	[material expenses: \$425; gross income: \$432]
2014 (to date): \$95	[material expenses: \$440 (does not include the cost of the quilting workshop referenced below); gross income: \$535]

Now that the Baer children are in school full-time, Abigail believes she can make her quilting a more lucrative activity. Last summer she paid \$375 to attend a weeklong workshop, "Quilting for Fun & Profit" and has begun implementing some of the techniques she learned.

Abigail and Allan are preparing to file their joint 2014 tax returns and want to know what federal and state income tax deductions they may be eligible for, if any, in connection with Abigail's quilting enterprise. Fully research and analyze her tax situation.

Research Memo Grading Rubric

Research Memorandum (15%):

Draft a memo of between **three and five single-spaced pages** addressed to your supervising attorneys (Buckley, Morgan, and Botek) that **(1) summarizes the applicable law, (2) applies it to your factual scenario, and (3) identifies two relevant practice aids that may be helpful.** Cite the sources you rely upon using the Bluebook, 19th edition.

Did the student meet the page minimum of 3 pages? Was the memo well-organized, thoughtfully written, concise, and clear? [20 pts]

YES	NO
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Comments:

Did the student summarize the applicable law? [30 pts]

Litigation Track [Campbell]	Transactional Track [Baer]
<p>1. Alienation of Affection (North Carolina)</p> <ul style="list-style-type: none"> a. An action for damages against a third party who "alienates" the affections of one spouse from the other spouse b. Brought against a 3rd party <p>2. Criminal Conversation (North Carolina)</p> <ul style="list-style-type: none"> a. Elements: <ul style="list-style-type: none"> i. legal marriage to adulterous spouse ii. an act(s) of sexual intercourse took place between his or 	<p>1. Federal (hobby or business analysis)</p> <ul style="list-style-type: none"> a. 26 USC 162, whether quilting activity qualifies as a "trade or business" for income tax purposes b. 26 USC 183, "hobby loss" provision <ul style="list-style-type: none"> i. Was the activity engaged in for profit? (discuss 9 factor test and profit motive presumption) <p>2. Federal (deductions)</p> <ul style="list-style-type: none"> a. "Ordinary and necessary" deductions allowed

<p>her spouse and a third party</p> <ul style="list-style-type: none"> iii. adulterous spouse was not physically separated from the innocent spouse with the intent of either spouse that the separation remain permanent at the time of adultery iv. that the adulterous act(s) took place within the three-year statute of limitations. <p>3. South Carolina – students should conclude there is no viable cause of action in that jurisdiction.</p> <p>4. “Bonus” topics (these causes of action could be suggested by the facts, but are so unlikely to be successful I think we should just treat them as “+” if the student mentions them)</p> <ul style="list-style-type: none"> a. IIED: D engaged in extreme and outrageous conduct intended to cause severe emotional distress to P and such conduct did, in fact, cause this kind of distress. [e.g., <i>Dickens</i>, 302 N.C. 437] b. NIED: D negligent engaged in conduct and it was reasonably foreseeable that the conduct would cause severe emotional distress and, in fact, did cause this level of distress. [e.g., <i>Sowell</i>, 334 N.C. 669] c. NC criminal adultery statute NCGS 14-184 (held unconstitutional by an unpublished opinion, <i>Hobbs</i>, 2006 WL 3103008). 	<p>3. State (Maryland)</p> <ul style="list-style-type: none"> a. MD is a state that has adopted the federal individual income tax structure, with the exception of a few state-specific deductions (none of which are very relevant under this fact pattern).
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Did the student apply the law to the facts given? [35 pts]

YES	NO
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Comments:

Did the student identify and list two practice aids? (possible answers below, they may have found additional ones) [15 pts]

Litigation Track	Transactional Track
<ul style="list-style-type: none">● NC Index 4th● NC Family Law Practice● NC Law of Torts● NC Damages● AmJur Proof of Facts● AmJur Pleading & Practice Forms	<ul style="list-style-type: none">● BNA Tax Management Portfolios● Federal Income Taxation of Individuals [Westlaw]; also a treatise● The Law of Federal Income Taxation [Mertens]; also a treatise● Maryland State Tax Reporter● Practice Manual for the Maryland Lawyer● Maryland Law Encyclopedia

Research Notes Grading Rubric

1. Research Notes (10%):

Provide a **preliminary case analysis** listing the primary legal and factual issues for your scenario; identifying all applicable jurisdiction(s); and generate a list of key words & phrases for use during the research phase of this project.

In addition, (1) draft a **one to two single-spaced page** narrative description of your full research process for this project and (2) **attach a list of all the sources you consulted.**

I. Preliminary Case Analysis [30/100]

Did the student identify all potentially applicable jurisdictions? [5 pts]

Litigation Track [Campbell]	Transactional Track [Baer]
North Carolina, South Carolina (bonus if they mention Federal and 4th Circuit).	Federal and Maryland

Did the student isolate the primary legal issues? [7.5 pts]

Litigation Track [Campbell]	Transactional Track [Baer]
<ul style="list-style-type: none"> ● Alienation of affection ● Criminal conversation ● Other miscellaneous torts/criminal statutes suggested by the fact pattern: <ul style="list-style-type: none"> ○ Intentional Infliction of Emotional Distress (IIED) ○ Negligent Infliction of Emotional Distress (NIED) ○ Impact on alimony award ○ Criminal adultery statute ● Damages calculations, including factors to consider 	<ul style="list-style-type: none"> ● Is the quilting enterprise a hobby or business? (including what is the criteria for distinguishing a hobby from a business) ● What are the allowable deductions (or credits) related to this business/hobby? Similarly, what qualifies as an 'ordinary and necessary' business expense? ● What requirements must be met to qualify for the home office deduction?

Did the student identify and list the major factual issues? [7.5 pts]

Litigation Track	Transactional Track
<ul style="list-style-type: none"> Facts concerning the time, place, duration, and circumstances surrounding Annette's association with Bob and Caleb. 	<ul style="list-style-type: none"> Facts related to specifics on Abigail's quilting activity, how often, time devoted, etc. Facts about the spare bedroom; what other uses does it have, sq. footage, etc.

How useful/relevant were the key words & phrases they generated? [10 pts]

Unsatisfactory	Satisfactory	Excellent
<p>i.e., the student fails to supply terms adequate to fully research the question posed</p>	<p>i.e., student gives a list of search terms sufficient to research the issue, but it is neither thorough or complete</p>	<p>i.e., student demonstrates a comprehensive understanding of the key words & phrases suggested by the hypothetical, including synonyms</p>

II. Research Narrative [35/100]

Did the student reach the minimum page length (1 page)? [5 pts]

Yes	No
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Was the narrative sufficiently detailed? [10 pts]

Unsatisfactory	Satisfactory	Excellent
<p>i.e., the student either does not supply enough information or describes a research approach that is inappropriate/ineffective</p>	<p>i.e., student provides a narrative that evidences an adequate, but not outstanding, use of course material</p>	<p>i.e., student demonstrates a superior grasp of the research concepts and theories covered in the course</p>

Rate the efficiency and effectiveness of the research process as written. [1, being completely ineffective/inefficient and 5, being outstanding] [10 pts]

1 2 3 4 5

Is there clear evidence that they applied lessons learned through the course lectures and materials? [10 pts]

Yes	No
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III. Resource List [35/100]

Did the student consult a reasonable variety of resources? [10 pts]

Are the resources sufficient to answer the question? [10 pts]

Did the student demonstrate an understanding of the distinction between types of resources (e.g., through the use of headings)? Consider deductions for extraneous resources that don't fit the problem. [15 pts]