Legal Research Cheat Sheet

by Wolf25 via cheatography.com/24068/cs/5458/

Chapters 1 & 2

Law- The enforceable rules that govern individual and group conduct in a society

Legal research-Finding the law that applies to the problem

Legal analysis-Determining how it applies to the problem

Types of law (pg.4-6)

Enacted-Body of law adopted by the people[constitutions, statutes, admin/regulations]

Common-Law created by the courts in absence of enacted law

Case-Broader than common. everything + laws created from interpretation or application of enacted

Court Systems (pg.7-8)

Over persons by geographic area-Personal jurisdiction

Over subject matter by types of cases-Subject matter jurisdiction

More than one court has authority to deal with the same matter-Concurrent jurisdiction

Federal Courts (pg.8-9)

Trial court= US District Court 75k+, US Const, Fed laws, treaties, etc.

Court of Appeals= Circuit Courts-13

Only for review, no new trials

Chapters 1 & 2 (cont)

The Supreme Court= The last stop

A party who disagrees with a COA ruling must request a **petition for a writ of certiorari**

Stare decisis- Requires a court to follow a previous decision of that court or a higher court when the decision involves issues and facts similar. (pg.11)

Authority (pg.15)

Types of secondary authority:

Annotations-Notes and comments on the law. ALR. Provides a list of cases from other jurisdictions.

Legal Dictionaries- Black's Law. Defines legal terms & maybe cite

Law Reviews Published by law schools|specific topics|references

Legal Encyclopedias

Restatements of the law

Treatises

Primary and Secondary as Persuasive (pg. 18)

IRAC Analysis (pg.30)

Issue- Identify the issue(s) raised by the facts

Rule-Identify the law the governs the issue

Analysis/App-Determine how it applies

Conclusion-Summarize the results

Chapters 3 & 4

Statutory law- Laws passed by Congress or state legis. Local level= Ordinances.

Anatomy of a statute (pg.62-63)

Numbers-Different # for every legis authority

Short Title- The name by which it's known. i.e "Affordable care act"

Purpose Clause- Purpose of the legis body when drafting. Shows intent.

Scope-Some sections define what is and isn't covered by statute

Definitions-Helps determine if legis gave specific meaning to terms

Substantive Provisions

Annotations/Reference- History of section, dates of ammend,

USCA (pg. 65)

-200 Volumes + Gen Index

-Gen Index- Softbound set|updated annually| Descriptive words/phrases, alphabetically with headings and subheadings

-Pocket parts are cumulative-Volume is updated from the date of its publication.

-Up to date = "This Volume Contains No Pocket Part"

-Pocket parts published once a year

-(pg.68-69)

Cannons of Construction (pg.91)

Chapters 3 & 4 (cont)

Rules and guidelines the courts use when interpreting statutes

Expressio Unius- "The expression on one excludes all others" exclusion of everything not covered. A dwelling...not a dwelling

Ejusdem Generis- Other things of the same class. Bicycles, tricycles...

Pari Materia-Same subj matter. Gender preference

Case Law (pg. 105)

Why analyze court opinions?

-To learn the case law|Interpret con or stat law| Understand litigation process| To gain insight into legal analysis|Develop legal writing skills

Elements of Court Opinions (pg. 106)

Citation

Caption- Names of partie|*Appellee*-winner of the trial court level|*Appellant*-Loser who filed the appeal

Syllabus- A brief summary of the opinion. Editorial by West.

Headnotes Summaries of the points of law discussed in the case

Court Opinion Research (pg. 113)

Slip Opinions- Published by the court|Concurring and dissent| That's it!

Advance Sheets-

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Chapters 3 & 4 (cont)

Reporter- Only published when there are enough adv sheets to fill a vol
-U.S Reports is the official reporter for SCOTUS. Indexed but no headnotes of key #'s
-Supreme Court Reporter- Unofficial, published by West| Since 1882| Faster| Adv sheets published twice a month

Case Brief (pg. 123)
Citation|*Parties*|*Facts*|*Prior Proceedings*|*Issue*|*Holding*|*Reasoning*|*Disposition*|*Comments*

Chapters 5 & 6

Secondary Authority
Legal Encyclopedias- No in-depth coverage, very broad
CJS is larger than Am. Jur 2nd. Begin with Gen Index.
Treatises- Use this when you need more than a general summary of the law from a encyc. Valuable in locating cases

American Law Reports (pg.153)
ALR (First Series)- 1919-1948 has 175 Vol
ALR.2d-1948-1965 has 100 Vol
ALR.3d-1965-1969 state cases '65-'80 has 100 vol
ALR.4th State '80-'91-100 vol
ALR 5th State '91-Jun 2005- 125 vol

Chapters 5 & 6 (cont)

ALR.6th State '05-Present

Key Number- West (pg. 163)

Legal Periodicals (pg. 193)
Law Reviews- Usually include: Articles, notes + comments. recent developements, book reviews
Restatements of the law- American Law Institute 1923. Greater recognition than treatises.

Chapter 7

Computers (pg. 229)
Boolean searches- Searches using key words or terms from the issue
Natural language stating the query using plain English
& (and) - All documents with BOTH terms= Lots and lots of docs
space (or) - either term
/s - Both terms within same sentence
/p - Both terms in same paragraph
/n - Where *n* = the number, terms appear within that many words

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