

2: Introduction to Legal Synthesis

The next several chapters will provide you with tools for legal analysis and higher-level legal writing. Legal synthesis occurs in at two steps:

1. While you are doing research, as you analyze each legal authority you find to determine its relevance to your client's question and its meaning (**micro-synthesis**); and
2. After your research is completed, and you determine the interrelationship between the legal authorities (**macro-synthesis**).

Answering a client's legal question is like putting together a puzzle. Usually, when you put together a puzzle, you have a picture of the completed puzzle on the box. The picture is like the client's legal question, and each puzzle piece is a legal authority or one of the client's facts that fit together to form the answer to the client's legal question. We'll use this analogy to help explain legal synthesis.

Micro-Synthesis

Imagine that you have lots of different puzzles, and all of the pieces to all of the puzzles are contained in a huge box. The first thing you need to do is figure out which of the pieces belong to the puzzle you are trying to put together. Using the picture of the puzzle you want to put together, you sort out the pieces that belong to that puzzle, leaving the rest in the box. As you carefully examine each puzzle piece, you are able to figure out if each individual puzzle piece belongs to the puzzle you want to put together.

In the context of legal synthesis, this means you need to figure out which legal authorities are relevant to your client's legal question. When you look up search terms in an index, you are performing synthesis in its broadest sense; you decide to retrieve and read legal authority only if it is listed under your search term. In other words, you decide whether the legal authority listed in the index might apply to your client's legal question.

Once you have a list of legal authorities to read and analyze, it is time to do an in-depth micro-synthesis of each one. This involves analyzing the facts and requirements of the legal authority, what it means and when/how it applies. After you have thoroughly analyzed the legal authority, the next step is to compare it to the facts and circumstances presented by your client's legal question. Each detailed comparison between the legal authority and your client's facts will get you closer to confirming that the legal authority applies to your client – or determining that it does not apply. Your micro-synthesis of each legal authority should involve the following steps:

1. Analyze the client's facts/legal question (legal questions/issues drive your legal research)
2. Determine the facts of the legal authority
3. Compare the client's facts to the legal authority's facts, looking for similarities/differences (this helps to determine if the legal authority applies)
4. Determine the legal rule set forth in the legal authority
5. Predict how the legal rule will apply to the client

After you have weeded out the puzzle pieces that clearly don't belong to your puzzle, you'll find you still have a fairly large pile of pieces. The next thing to do is to figure out how the puzzle pieces (or legal authorities) in front of you fit together to complete the picture (or answer the client's question). This is macro-synthesis.

Macro-Synthesis

When putting together a puzzle, most people start by sorting the puzzle pieces by shape or color, predicting how they might fit together. Using the picture on the puzzle box as a guide, you sort each puzzle piece into its place with the other puzzle pieces, based on its shape and color.

Similarly, once you know how all the legal authorities you micro-synthesized relate to one another, you can predict how the legal rules as a whole will apply to the client's legal question. Be prepared to repeat the micro- and macro-synthesis processes several times; very rarely can a client's legal question be answered after a "one and done" synthesis. Often a full analysis of the client's question (for example, is the client likely to be convicted of arson) requires full analysis of sub-questions or sub-issues (as you will soon see, the State must prove several different elements to secure an arson conviction). Legal research frequently will start with

one broad question, and then morph into two or more narrower questions that must be answered before the broad question can be answered. That is why you should organize your research notes by legal issue, with a separate page for each issue, rather than by legal authority type (codified law, common law, secondary authorities, etc.). Even if you end up placing the same legal authority on multiple research note pages, organizing by legal issue helps you to more easily see how each legal authority relates to each legal issue as well as how it relates to other authorities that address each legal issue.

Macro-synthesis typically involves the following steps (which are similar to the steps used in micro-synthesis):

1. Analyze the client's facts/legal question (legal questions/issues drive your legal research)
2. Compare the facts and requirements of all the legal authorities you micro-synthesized, noting the differences and similarities
3. Compare the client's facts to the legal authorities' facts, looking for similarities/differences (this helps to determine how the legal authorities apply)
4. Combine the legal rules set forth in the legal authorities to get a "big picture" of how the rules apply, and when the outcome of the application of the rules changes
5. Predict how the legal rule will apply to the client by determining where on the continuum of outcomes the client's facts best fit.

The next several chapters will focus on micro-synthesis tools and techniques for statutes and case law. Once we've mastered those, we'll move into macro-synthesis.

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