

16: Legal Memos - Final Draft

Answers, Introductory Paragraph and the Final Draft

In this chapter, we are going to explore what goes into writing the last two parts of your legal research memo – the Answers section and an introductory paragraph. Once you have written those, you are ready to finalize it! This chapter contains some suggested steps and, at the end, a checklist for making your final draft the best it can be.

REVIEW AND REVISE WHAT YOU'VE WRITTEN SO FAR

Before you start drafting the Answers section and the introductory paragraph, proofread, edit and revise the existing sections of your memo to make sure they look exactly the way you want them to look. Here are some suggested steps for this process:

Step 1: Check the existing sections of your legal memo for accuracy and completeness

Revision is an important part of excellent legal writing. Review each section of your legal memo to make sure what you wrote accurately reflects your legal synthesis and analysis. Some *common errors to avoid in each component*:

- **Questions Presented**
 - ⊗ writing the legal standard too broadly (is someone liable, guilty, responsible, etc.) rather than focusing on the word or phrase being interpreted and applied.
 - ⊗ failing to include a list of legally significant client facts related to the legal standard.
 - ⊗ including facts in the Questions Presented section that are not also included in the Facts section.
- **Facts**
 - ⊗ omitting legally significant facts or over-summarizing and leaving out small, but important, details.
 - ⊗ omitting contextual facts that help the reader understand what happened to the parties involved in the client's legal matter.
 - ⊗ failing to use “signal” words to let the reader know which facts are disputed or subject to more than one reasonable interpretation.
 - ⊗ including legal conclusions (don't answer the question in the legal standard or make a statement that the legal standard's requirements were met or not met).
- **Discussion**
 - ⊗ failing to use subheadings/subtitles that match each Question Presented being discussed.
 - ⊗ failing to include all of the IRAC components, in the correct order, for each Question Presented being discussed (review the chapters regarding IRAC for more detail).
 - ⊗ failing to include a complete and detailed counter-analysis as necessary after your IRAC analysis of each Question Presented (review the chapter regarding the Discussion section).

THE ANSWERS SECTION

The Answers section goes right after the Questions Presented section. The purpose, of course, is to tell the reader how you answered each Question Presented, with a brief summary as to why you answered it that way. Although it seems logical to draft the Answers right after you draft the Questions Presented, it's actually easier to draft them after you've drafted your Discussion sections. Think of the Answers as a synopsis of what your detailed analysis contained in your Discussion sections. Any writer will tell you it's easier – and more logical – to write a synopsis of a document after you've written the actual document.

Once you've got the other sections of your research memo finalized, writing the Answers section is relatively easy. Here are the steps:

Step 1: Copy and paste the legal standard from your Questions Presented into the Answers section.

After you title the Answers section, this really is the next step! Then make sure that the main numbering system of the Answers matches the main numbering system of the Questions Presented.

Step 2: Add one of the following to the beginning of each Answer: “Yes.” “Probably yes.” “No.” “Probably No.”

How did you answer each Question Presented? If you included counter-analysis, you need a “probably” answer so the reader knows up front there could be an alternative answer. If counter-analysis wasn't necessary, then writing “Yes” or “No” suffices.

Step 3: Revise the grammar and punctuation in each Answer to a statement.

You wrote your Question Presented as a question. The Answer needs to be a statement. That means you'll need to change some words or word order and change the final punctuation from a question mark to a period. Here is what our Answers would look like so far:

ANSWERS

1. Probably yes. The State will likely be able to prove beyond a reasonable doubt that Wonka “intentionally damaged” the Chocolate Factory.
2. Probably yes. The State will likely be able to prove beyond a reasonable doubt that the damage to the Chocolate Factory occurred “without the other owner's consent.”

Step 4: Add a brief summary of the legal authorities and legally significant facts that support each Answer.

Review the Rule and Application components of the Discussion section in which you analyzed the Question Presented related to the Answer. Then, generally summarize, at a high level, what the legal authorities say about the legal standard. After that, write one to two sentences about the most important legally significant client facts that support your Answer. Finish with a concluding sentence. Here is what the final draft of our Answers would look like:

✓ Example Answers

ANSWERS

1. Yes. The State will very likely be able to prove beyond a reasonable doubt that Wonka “intentionally damaged” the Chocolate Factory. Wisconsin case law identifies several facts that tend to show intent, such as use of accelerants, a fire occurring at a time when the area is likely to be unpopulated, and other facts that can be interpreted as showing hostility. All of these facts are present in the Wonka case. Therefore, the State will prove that Wonka intentionally damaged the factory with fire.
2. Probably yes. The State will likely be able to prove beyond a reasonable doubt that the damage to the Chocolate Factory occurred “without the other owner's consent.” According to Wisconsin case law, consent must be proven with objective facts. The owner's statement that he or she did not consent to commission of the crime, in the absence of strong evidence to the contrary, is sufficient. Bucket, the other owner of the Chocolate Factory, informed police that he neither had prior knowledge of nor consented to a plan to damage the factory with fire. If the jury believes Bucket's statement to police and discounts theories involving insurance fraud, the State will likely be able to prove that Bucket neither knew about nor consented to a plan to set the factory on fire.

Notice that there are no citations contained in the Answers. It would be fine to cite the arson statute if you choose; if you do, make sure to use complete and proper *Bluebook* citation form!

Writing the Introductory Paragraph.

At this point, your legal research memo begins with the Questions Presented. It seems like some part of the context is missing, doesn't it? If you read the rest of your memo, nowhere does it come right out and say that the purpose of the memo is to provide advice to Wonka regarding whether he is likely to be convicted of arson. Enter the introductory paragraph.

The introductory paragraph states the client's broad legal question, identifies the legal standards, and states the potential outcomes for each legal standard. It gives the reader a roadmap of the Discussion section and a sneak preview of what's to come. Think of it as being similar to a movie trailer: it hits the high points without too many "spoilers," enticing the reader to read further and learn more.

Once again, I recommend using a formula similar to what you see below for writing your introductory paragraph. This makes it less likely you'll forget an important part of the paragraph.

- Start with the client's broad legal question. In this case, Wonka's broad legal question is whether he is likely to be convicted of arson.
- State generally the legal standards identified in each Question Presented, as well as other issues that do not need full analysis. When the legal standards come from a statute, this is simply writing the elements of the statute that must be proven. For Wonka, those elements are that fire was used to intentionally damage the building of another, without the other owner's consent.
- State generally your answers to/analysis of the legal standards/elements you identified in the previous sentence. For Wonka, it is undisputed that fire was used to damage the building of another. It is likely that the State will prove the element of intent based on the facts provide. It is also likely that the State will prove lack of consent by the other owner if the jury believes Bucket's statement to the investigating officer.
- Finish with your conclusion regarding the broad legal question. In this case, we've concluded that Wonka will likely be convicted of arson.

Here's how the introductory paragraph might look:

✓ Example Introductory Paragraph

This memo will address the issue of whether our client, Willy Wonka, is likely to be convicted of arson. To secure an arson conviction, the State must prove beyond a reasonable doubt that Wonka used fire to intentionally damage the building of another, without the other owner's consent. It is undisputed that fire was used to damage the Chocolate Factory, and that the Chocolate Factory, jointly owned by Wonka and Charlie Bucket, is a building of another; thus, these elements will not be analyzed. Based on the facts provided, the State will likely be able to prove Wonka intended to damage the Chocolate Factory. The only element the State may have difficulty proving is that Bucket did not consent to the arson. While some facts may suggest a motive for Bucket to consent to the arson, a jury might discount those facts in light of Bucket's statement to police that he neither knew about nor consented to a plan to burn the factory. Therefore, the State is likely to prove all the required elements of arson and secure a conviction.

Now the reader knows what will be analyzed, the points of contention, and the potential result. There's even a little cliffhanger regarding the question of consent to pique the reader's interest.

REVIEW, REVISE, AND FINALIZE YOUR MEMO

The final draft of your legal research memo should reflect not only your legal and factual analysis, but also your professionalism as a writer. Don't let things like improper citation form, errors in writing mechanics (including grammar, punctuation, capitalization), or spelling errors ruin an otherwise great memo! Run spell-checker – slowly and carefully! Then put the memo aside for a while (at least an hour); after that, run "dumb-checker" – consider slowly and carefully reading your memo out loud.

Some additional items for your revision checklist:

- Make sure you have all of the required sections, in the correct order; label only those sections that are required to be labeled (Questions Presented, Answers, Facts, Discussion)
- Make sure your IRAC analyses are complete with the IRAC components in the correct order
- Make sure your memo is internally consistent across all components
 - Do you have the same number of Questions Presented, Answers, and IRAC analysis sections?
 - Is there a one-for-one correlation between each Question Presented, Answer, and IRAC analysis Section (that is, do Question Presented 1, Answer 1, and IRAC 1 all address the same legal standard)?
 - Is the content of your Questions Presented, Answers and Discussion consistent?
 - Are all the facts contained in your Questions Presented and Discussion section also contained in the Facts section?
 - Are the verb tenses consistent across all Questions Presented, Answers, and IRAC analysis sections (past tense or present tense)?
 - Are the names/nouns/pronouns consistent across all Questions Presented, Answers, and IRAC analysis sections (plural nouns or singular nouns, for example)?
 - Do the legal standards at the beginning of each IRAC analysis section match the Question Presented to which they relate?
 - Do the conclusions at the end of each IRAC analysis section match the yes/no in the Answer to which they relate?
 - Did you include complete and detailed counter-analysis as required?
 - Do the Answers relating to discussions requiring counter-analysis begin with "probably" yes or no?

Writing a legal research memo might not come easily to you at first. That's OK! Your comfort level with the skills involved in will increase the more you practice them.

CHECKLIST FOR DRAFTING THE LEGAL RESEARCH MEMO, FINAL DRAFT

Use this checklist to help you write your legal research memo final draft. Or access the interactive version - [Checklist for Drafting the Legal Research Memo Final Draft.docx](#)

MAKE SURE ALL SECTIONS ARE INCLUDED AND PROPERLY LABELED (IF REQUIRED TO BE LABELED)

- ___ Are you using the correct Memo heading format?
 - ___ Do you have a work product heading?
 - ___ Do you have a RE line that describes the broad question, identifies our file number and includes the court case name and number (if any)?
- ___ Do you have an introductory paragraph?
- ___ Do you have Questions Presented?
- ___ Do you have Answers – one for each Question Presented?
- ___ Do you have a Facts section?
- ___ Do you have a Discussion section – one IRAC analysis for each Question Presented?
- ___ Are the sections in the correct order and properly labeled (if a label is required)?

MAKE SURE EACH SECTION IS COMPLETE

Note: this is the order in which I usually check each section.

FACTS:

- ☐ Do you have all of the legally significant and contextual client facts described?
- ☐ Did you write your facts in logical order (chronological, or by issue, or by party – whichever is simplest and flows best)?
- ☐ Is it clear which facts are disputed (use words like appears, claims, apparently, etc.)
- ☐ Are your facts written in narrative form (not bulleted lists or sentence fragments, but like a story)?

QUESTIONS PRESENTED:

Does each Question Presented have a narrow Legal Standard? Briefly identify each legal standard below		Does each Question Presented contain client facts relevant to the legal standard – what behavior or circumstances cause us to wonder whether the legal standard applies?	
1.		<input type="checkbox"/> Yes	<input type="checkbox"/> No -- REVISE
2.		<input type="checkbox"/> Yes	<input type="checkbox"/> No -- REVISE
3.		<input type="checkbox"/> Yes	<input type="checkbox"/> No -- REVISE

DISCUSSION:

IRAC Analysis #1:

Explain whether the legal standard will be proven, using IRAC Format

Issue	Legal standard from Question Presented #1	
Rule	Words of the statute(s) being interpreted and applied in issue #1, above	
	Citation of the statute(s) being interpreted and applied in Question Presented #1, above	
	Is there more than one statute? If so, how are they related? Use a transition sentence or phrase to show this	
	Use a transition to introduce the Court decisions interpreting the statute <input type="checkbox"/> What did the Court say the statute/words mean? <input type="checkbox"/> Why did the Court interpret the way it did (what tools did it use) <input type="checkbox"/> Are the case law facts discussed, so you can compare them to your client's facts? <input type="checkbox"/> How did the Court apply the law to the facts in front of it?	
Application	Use a transition to introduce the Client facts <input type="checkbox"/> Do all of the facts you have written here relate only to the legal standard you identified in your issue, above? <input type="checkbox"/> Do all of the facts you have written here appear in your Facts section, above?	
Conclusion	Answer the question above (Therefore)	

☐ The IRAC components are in proper order

Is counter-analysis required?	
<input type="checkbox"/> No. The facts and law are undisputed and clear	
<input type="checkbox"/> Yes. There are disputed, unclear or missing facts; or there are facts subject to multiple reasonable inferences/interpretations	<input type="checkbox"/> Disputed, unclear or missing facts are described
	<input type="checkbox"/> Multiple reasonable inferences/interpretations of facts are described
	<input type="checkbox"/> Impact (opposite conclusion) of viewing the facts in this way is described
<input type="checkbox"/> Yes. The law is unclear or subject to multiple reasonable interpretations/applications; or, the legal issue is fact-intensive and none of the cases discussed in IRAC has facts identical to our client	<input type="checkbox"/> Other court decisions that could be applied are described
	<input type="checkbox"/> Other reasonable interpretations/applications of case law are described
	<input type="checkbox"/> Impact (opposite conclusion) of viewing the law in this way is described

IRAC Analysis #2:

Explain whether the legal standard will be proven, using IRAC Format

Issue	Legal standard from Question Presented #2	
Rule	Words of the statute(s) being interpreted and applied in issue #2, above	
	Citation of the statute(s) being interpreted and applied in Question Presented #2, above	

	Is there more than one statute? If so, how are they related? Use a transition sentence or phrase to show this	
	Use a transition to introduce the Court decisions interpreting the statute ___ What did the Court say the statute/words mean? ___ Why did the Court interpret the way it did (what tools did it use) ___ Are the case law facts discussed, so you can compare them to your client's facts? ___ How did the Court apply the law to the facts in front of it?	
Application	Use a transition to introduce the Client facts ___ Do all of the facts you have written here relate only to the legal standard you identified in your issue, above? ___ Do all of the facts you have written here appear in your Facts section, above?	
Conclusion	Answer the question above (Therefore)	

___ The IRAC components are in proper order

Is counter-analysis required?

___ No. The facts and law are undisputed and clear

___ Yes. There are disputed, unclear or missing facts; or there are facts subject to multiple reasonable inferences/interpretations

___ Disputed, unclear or missing facts are described
 ___ Multiple reasonable inferences/interpretations of facts are described
 ___ Impact (opposite conclusion) of viewing the facts in this way is described

___ Yes. The law is unclear or subject to multiple reasonable interpretations/applications; or, the legal issue is fact-intensive and none of the cases discussed in IRAC has facts identical to our client

___ Other court decisions that could be applied are described
 ___ Other reasonable interpretations/applications of case law are described
 ___ Impact (opposite conclusion) of viewing the law in this way is described

IRAC Analysis #3:

Explain whether the legal standard will be proven, using IRAC Format

Issue	Legal standard from Question Presented #3	
Rule	Words of the statute(s) being interpreted and applied in issue #3, above	
	Citation of the statute(s) being interpreted and applied in Question Presented #3, above	
	Is there more than one statute? If so, how are they related? Use a transition sentence or phrase to show this	
	Use a transition to introduce the Court decisions interpreting the statute ___ What did the Court say the statute/words mean? ___ Why did the Court interpret the way it did (what tools did it use) ___ Are the case law facts discussed, so you can compare them to your client's facts? ___ How did the Court apply the law to the facts in front of it?	
Application	Use a transition to introduce the Client facts ___ Do all of the facts you have written here relate only to the legal standard you identified in your issue, above? ___ Do all of the facts you have written here appear in your Facts section, above?	
Conclusion	Answer the question above (Therefore)	

___ The IRAC components are in proper order

Is counter-analysis required?

___ No. The facts and law are undisputed and clear

___ Yes. There are disputed, unclear or missing facts; or there are facts subject to multiple reasonable inferences/interpretations

___ Disputed, unclear or missing facts are described
 ___ Multiple reasonable inferences/interpretations of facts are described
 ___ Impact (opposite conclusion) of viewing the facts in this way is described

___ Yes. The law is unclear or subject to multiple reasonable interpretations/applications; or, the legal issue is fact-intensive and none of the cases discussed in IRAC has facts identical to our client

___ Other court decisions that could be applied are described
 ___ Other reasonable interpretations/applications of case law are described
 ___ Impact (opposite conclusion) of viewing the law in this way is described

ANSWERS:

	Your answer as to whether each question presented will be proven (yes, no, probably yes, probably no)	Legal standards to prove	Did you briefly explain the law and facts that support your
1.			___ Yes ___ No -- REVISE
2.			___ Yes ___ No -- REVISE
3.			___ Yes ___ No -- REVISE

INTRODUCTORY PARAGRAPH:

Broad issue (liability, guilt, etc.?)		
	Legal standards to prove	Your answer as to whether each will be proven (yes, no, probably yes, probably no)
1.		
2.		
3.		
Broad Conclusion (liability, guilt, etc.?)		

MAKE SURE THE MEMO IS INTERNALLY CONSISTENT

Is the legal issue identified consistent? (briefly identify each issue and make sure it's consistent in all #1s, #2s, #3s)	Intro Paragraph	Questions Presented	Answers	IRAC Analyses
1.	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --
2.	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --
3.	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --

Is the legal conclusion identified consistent? (briefly identify each issue and make sure it's consistent in all #1s, #2s, #3s)	Intro Paragraph	Answers	IRAC Analyses	Counter-Analyses
1.	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --
2.	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --
3.	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --	___ Yes REVISE ___ No --

MAKE SURE THE MEMO USES GOOD WRITING MECHANICS

- ___ Did you run spell-checker?
- ___ Did you run dumb-checker (carefully proofread everything you wrote)?

Voilà! Your memo is complete! [To see the final draft of our Wonka Legal Research Memo, click here.](#)

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