

How to Read Law Like an Expert

Save time and improve your understanding by picking up on valuable cues from your casebook and other sources

By: Ruth Ann McKinney

Reading well is the heart and soul of success in law school. From the first semester, law students are commonly assigned hundreds of pages of dense, challenging law in a week and thousands of pages in a semester. Faced with this enormous volume of reading, it is easy for students to feel overwhelmed and to make decisions about their reading that backfire later.

Some students dig in their heels and read every word, leaving little time to think deeply about what they've read and little energy to care about the class discussions that follow. Others give up on one level or another, often only skimming their reading to find the answers to specific questions they think their professors might ask about in class and hoping the "big picture" will miraculously come together later.

Law students who excel eventually develop strategies that allow them to read efficiently, effectively, and powerfully. If you want to start this semester with a bang, resolve to use your reading time to maximum advantage.

There are many things you can learn over time about how to read law quickly without sacrificing results. One of the smartest choices you can make right away is to recognize and use cues beyond the actual words in the text to orient

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yourself before you begin and to monitor your understanding as you read. Racing past these cues ends up costing you far more time than you save.

The most easily accessible reading cues fall into the following categories:

- Cues provided by the casebook author;
- Cues in the case, statute, or administrative regulation you're reading;
- Cues in publications other than the assigned reading; and
- Cues from your professor and peers.

Cues provided by the casebook author

Table of contents. All casebooks have a table of contents that can help you get a grasp of what the whole course is about. By looking over the table of contents at the beginning of the semester, you can often develop a pretty good hypothesis about the content of the area of law covered. Having a healthy overview helps you take better educated guesses about the meaning of the cases you are reading before you even begin. It also keeps you from wasting time by starting with wrong assumptions or by having no assumptions at all.

Always read the table of contents when you first begin a course, and review it often as you move into new sections. It's also a good idea to compare the table of contents with the course syllabus. No law course can teach you everything there is to know in any area of law. All you need to focus on are the components that your professor considers critical.

Subsections. A good casebook will divide a course into logical subparts, grouping related cases together. When you read a new case, pay attention to the title of the subsection the case appears in. These subheadings are often repeated as running headers across the top of each page.

As you learn more about this subsection by reading background material and the cases in it, think about whether the author's title of the subsection makes sense to you. If you can think of better wording, edit your copy of the book. Literally cross out the author's section heading and write in your new one. Coming up with your own topic heading is a great way to develop your initial hypothesis about the main idea you should take from the cases you are reading.

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Introductory material. Casebook authors often introduce a cluster of cases with a summary of the area of law it involves. You may be tempted to skip this background information if it's clear the material won't appear on the exam or if you have a professor who tends to summarize such material in class. But even if you won't be tested on the material, or if it will be reviewed in class anyway, there's an advantage to at least skimming the material up front. Doing so will help you develop a working hypothesis about the possible content of a case before you actually begin to read it.

The kind of internal dialogue you might hear in your mind as you read background material in a subsection of your Torts book on "Intentional Torts" would be something like this:

"I get it. So this is what lawyers mean when they talk about 'intent.' You don't actually have to have intended to *hurt* anybody. They seem to mean that you have to have intended the *action* itself. I'll bet the next case I read is going to play around with whether the defendant's actions were 'intentional' or not."

Clusters of cases. Casebook authors make careful decisions before they cluster cases together. Hence, the content of the cases that surround an assigned case can give you clues about the main idea of the one that was assigned.

In law school, you are always speculating, taking educated guesses, zeroing in on your target. The lines around a rule of law can rarely be taught with absolute clarity. This is an area dominated by gray areas, not bright lines.

Thus, casebook authors will frequently present a case from a jurisdiction or an era when the bright-line rule was one thing. A beginning law student, when exposed to a bright-line case like this, breathes a sigh of relief. "Thank goodness," the student thinks, "I have finally read a case that has taught me some law."

Such relief, however, is frequently short-lived. Casebook authors will commonly follow such a case with another bright-line case (that makes just as much sense) from another jurisdiction or era that solved the same kind of conflict by applying a significantly different bright-line rule.

Newcomers to the study of law then think, "How can this be? Is the rule what I just read in the first case, or is the rule what I'm reading now? Heck, maybe I can't read at all. It makes no sense that the rule could be both these things."

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With experience, the student begins to understand that the cluster of cases he or she is reading will help identify the tensions in this area of law. It is the tensions, which you can identify only by reading many cases all wrestling with the same or similar topics, that help you learn the kinds of things the courts think about and the kinds of policy issues that influence them as they struggle to shape rules to solve disputes.

Thus, an internal dialogue a student might have after reading a cluster of cases that discuss the nature of “intent” within the meaning of the “intentional torts” could be something like this:

[After reading the first case about a game of tug of war]:
“So, this court dismissed the plaintiff’s case for battery against the defendant because it felt the defendant was just playing with the plaintiff and never meant to hurt him. I guess that means that you have to have meant to hurt somebody to have the ‘intent’ required to be liable in an intentional tort like battery.”

[After reading the second case about a group e-mail]:
“Whoa. This court allowed a claim for the intentional tort of slander even though the harmful words that were sent over e-mail to the listserv for the plaintiff’s whole graduating class were sent by mistake. So, this court seems to think that the defendant is liable even though she never meant to hurt the defendant. I wonder if the difference has something to do with the fact that the plaintiff in the other case was also playing when he got hurt, but the plaintiff here got blindsided by this e-mail.”

There isn’t any way to know for sure what the rule or principles are at this point. This student, however, is thinking along the right lines and is asking the right questions to monitor and test various educated guesses. The student can take these educated guesses to class and use class time advantageously to bring them into clearer focus.

Notes and Questions. Many casebook authors add one more reading aid (sometimes called “Notes” or “Notes and Questions”) that is worth its weight in gold to an expert reader. Surprisingly, many students rarely use this tool. Ironically, the more confused many students are by apparent inconsistencies

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among the preceding cluster of cases, the less likely they are to explore these extra cues in-depth. On the surface, it would seem unanswerable questions would not be helpful – but, in fact, it really is.

The casebook authors include these notes to help direct your thinking. They have designed these additional ideas to give you hypotheticals and questions you can use to test the guesses that should have been developing in your brain as you read. So, the student described above who has begun to speculate about ways to reconcile the two tort cases on “intent” might continue his or her internal dialogue as follows:

[After reading a Notes and Questions summary of yet another perspective]: “Well, I’ll be darned. I think I’ve got it. The point seems to be that a defendant has to have intentionally acted in order to be liable, but doesn’t necessarily have to have intended a harmful result from the action.

“In the e-mail case, the sender meant to send a private e-mail to the plaintiff herself, but something unpredictable happened electronically that sent the e-mail to the whole class. Thus, it was an action outside the actor (like getting pushed into someone else in a crowd) that caused the harm. That’s why the court found no liability under those facts.

“In the first case, though, the defendant meant to push the plaintiff in a game of tug of war. But since the plaintiff was involved in what he should have known was a contact sports event, the court felt there should be no liability even though the defendant intended to make the contact.

“It’s a lot clearer now. Maybe the bottom line is that you’re responsible for harm that results if you intend an action that is within your control and the other person hasn’t consented to or invited your action. I’ll see if what I learn in class is consistent with these ideas.”

Cues in the text itself

Cues in the text itself can help you develop educated guesses about the ultimate main idea. It is critical to take advantage of these cues to speed your reading and get more from it.

Look at the place and date of the decision.

You'll be creating very different visual images and making different intellectual assumptions if you know a case was written in 1804, 1904, or 2004 and if it was decided in Burlington, Vt., Savannah, Ga., or Los Angeles.

Look ahead to the decision at the end of the case. Knowing who won lets you know where the court is going to eventually end up and makes it easier to follow its logic as it gets there.

Quickly skim the whole case before reading in-depth. How long is it? Are the facts critical? Does there seem to be a lot of dicta? Skimming gets you oriented quickly (especially in a long case) and allows you to monitor your reading more effectively.

Pay attention to special cues in statutes and regulations. Is the law a subsection of a larger act? Does it have headings or titles that might help you? Are terms in a list connected by the word "and" or by the word "or?" Especially with complex legislation, consider taking time to paraphrase or develop flowcharts to speed your comprehension.

Cues in other publications

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Another Reading Cue: Your Inner Voice

What you can get from any text is strongly influenced by – and limited to – what you have experienced, what you know, and what you can understand. The more you know about the content of what you're reading, the more you will get out of it.

When the author describes a warm sunny beach, I may be visualizing the Atlantic Ocean, you may be visualizing the Pacific Ocean, and someone else may be visualizing a quiet lake. As we all read on we come to find that the text we're reading is really about a sandy beach along the edge of the Mississippi River. If we're reading well, we'll modify the images we're visualizing accordingly, but if I'm a reader who has never seen or heard of sand, then I'm hard pressed to get an accurate image of the beach in the text. But if I'm a true lover of water and coastlines, I may have a hundred images of sand in such

Study aids. As a general rule, you don't need to use costly study aids on a routine basis. There are plenty of cues in the assigned reading itself to get you oriented and help you develop a good working hypothesis about the material you're reading. But study aids can be helpful if used wisely and as an aid to (not a substitute for) developing your own ideas.

Go to any law school bookstore and you'll be able to find a wide array of study aids ranging from books that present an entire course in outline form to books that summarize the content of a course in easy-to-read text. Your law library or academic support office may have these study aids available for free. Some study aids are written in a question-and-answer format, which can help you test the working hypotheses you're developing. Others use graphs and pictures to simplify complex ideas.

Treatises and hornbooks. A number of treatises and hornbooks, many of which may be available at your library's reserve desk, are recognized as the definitive word in a particular area of law. Many are used by professors and demanding appellate judges as a tool to help clarify muddy areas and difficult questions.

As a busy law student, you don't have time to learn everything there is to know about an area of law – you only have to learn what the professor has determined is critical. Thus, you should turn to a treatise or hornbook to clarify an area of law where the gray areas have become unbearably foggy, or as a way to get enough

a situation, there's a whole lot more going on in my head than in the head of the average reader. I am more likely to engage in a high-order dialogue with the author. I might question the author's description of a certain bird call. I might begin to speculate that the author must be describing the Delta area at the mouth of the Mississippi.

The visual images I begin to create based on this prior knowledge are much richer than those of someone with less experience. My initial hypothesis of the author's main idea is more likely to be accurate and I am also going to be more inclined to notice flaws in the author's descriptions or reasoning.

If you separate your prior knowledge and experience from the reading you do in law school, you handicap yourself unnecessarily. Instead, allow yourself to become deeply involved with the text of each case owning your prior knowledge and allowing yourself to be curious about what you're reading. Your prior knowledge of the historical or geographical context of a case, your prior knowledge of the legal issues raised, your understanding of the deciding judge's values and your

high-level background information to fine-tune a developing hypothesis about a case or cluster of cases.

Study aids, treatises, and hornbooks can be useful to varying degrees, but not a single one is a viable substitute for reading your casebook and attending class. Certainly not in the long run. If you use these publications heavily, you will sabotage your ability to learn to read cases without them. In addition, you will overload yourself with information that may distract your attention from what your professor wants you to learn. Your success will be determined by your ability to discern your professor's understanding of the main ideas in the course – not the opinions of another publication's author or even your casebook author.

Using study aids in a pinch. If you find after the first weeks of class that you are an unbearably slow reader and are routinely taking more than two hours just to read and brief your cases for one class, consider finding a good study aid to use as a reading cue (the same way you can use the background information provided by your casebook's author). Increasing your background knowledge about a case can help you form a hypothesis about your reading more quickly.

Similarly, some study aids provide case briefs (summaries of the actual cases you're reading) for most casebooks. If you are sick or experiencing an unusual emergency and don't have time to read at all, you're better off reading the summarized version of a case than reading nothing at all. At least then you'll be able to go

Assumptions about vocabulary words can deeply enrich your ability to read inside the case and extract meaning from it. Stay intellectually engaged with your reading by staying in touch with your thought as you read. Visualize and imagine. Then, monitor your assumptions and modify them as you move through the case. Is the court coming from the same political or moral base that you are? How does the political or moral base impact the assumptions you or the court are making? Is the court aware of the reality as you understand it, or has the court adopted a different view of the facts or the law? Your prior intellectual knowledge and experiences combine to give you valuable internal cues that can get you started down the right path when you enter a new area of law or begin a new case. By integrating these internal cues with external cues provided by your casebook author, your professor, and other sources, you can save yourself valuable time reading cases while netting meaningful, sophisticated results.

~Ruth Ann McKinney

into class with a working hypothesis of the area of law so that the class discussion can make some sense. If you're wise, you'll go back at some point and do a quick read of the actual case to make sure you haven't missed anything important.

These emergency suggestions are good short-term fixes but have to be limited to the short term only. Relying on these sources habitually will keep you from learning how to read and think about cases independently. Learning how to read cases independently is critical to your eventual membership in the legal discourse community.

Cues from your professor and peers

Your professor is a great source of cues that can speed your development of a working hypothesis of the main idea of your reading. Pay attention to your syllabus if one is provided. Be aware of where your present reading assignments fall in the overall context of the course design. Listen to how your professor forecasts a case when it is assigned. Think about how a new section of cases you are beginning might fit into what you have learned in class in the past.

Staying alert to your professor's views on the course is also a good way to keep yourself from wandering too far away from the main idea of a case. Cases contain many compelling legal questions, any number of which could engage your attention for a prolonged period. Pay attention to your course syllabus and to your professor's directives about what topics and subtopics within the course are important. Learn those topics and subtopics, including their nuances as explored in the cases assigned, and let go of other aspects of the assigned cases that do not add directly to your understanding of those specified areas. I often think of this as "staying within the box" of the course as your professor has laid it out.

Finally, don't forget your friends. Law students frequently talk about cases they have read or are planning to read. Keep your mind open and learn what you can from these conversations.

As you listen to your peers, don't think of understanding cases as a competitive activity. It is not a question of who can brief a case first, who is the fastest reader, or who has the most insight. Don't run a mental tape that says, "What's wrong with me – why didn't I see that point?"

Instead, think of your peers as a resource – one more cue – available to you as you explore the foggy, gray corners of the law.

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