Self and Peer Evaluation Guidelines

In order to complete this exercise, you will need a printed copy of your completed assignment and three different-colored highlighters. Evaluating your writing using these tools will help you test the efficacy of your analysis.

Applying Rule to Facts – Exercise One

1. Facts

With a yellow highlighter, highlight any references to the facts of the client's case that appear in the application section.

2. Phrase that Pays

Now find the “phrase that pays,” e.g., the word or words that are in controversy in this case (e.g., “detrimentally rely”). Use your NON-YELLOW highlighter to highlight the phrase that pays wherever it appears.

Did you repeat the phrase that pays, or did you use synonyms? Does your use of a synonym change the meaning of the phrase that pays?

3. Reasoning

Use a third color highlighter to highlight each time you explain the reason why the rule applies or does not apply to the facts of the client’s case.

4. Result

Ideally, once you have highlighted these three components, you should see all three colors of highlighter together; that is, you should have a sentence that states “Phrase that pays equals [or does not equal] concrete facts because . . . .” The order of these components within

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1 Adapted from a handout Professor Mary Beth Beazley of Ohio State presented at an LWI Conference too many years ago to remember.
the sentence or you may use more than one sentence to include all three parts.

Use this technique to evaluate the effectiveness of the application section of your legal analysis.

Reassembling Rules – Exercise Two

Articulation and Explanation of Rules

1. Phrase that pays

Use your NON-YELLOW highlighter to highlight the phrase that pays wherever it appears. Remember, the phrase that pays is the word or words that are in controversy in this case (e.g., “detrimentally rely”).

2. Result

a. Do you have a hard time finding a “phrase that pays”? Not every rule has a phrase that pays, but many do. If you can't find one, explain why the issue turns on something other than the meaning of words or phrases within the rule. Does this issue turn on the meaning of terms within rules that govern a sub-issue? Then by all means mark and highlight those.

b. How have you explained the meaning of the rule to the reader? Have you defined terms? Have you illustrated how the rule has been applied in the past? Have you chosen not to explain the rule because its meaning is concrete and non-controversial in this case?

Use this technique to evaluate the effectiveness of the rule section of your legal analysis.

3. Repeat the steps you used last week to evaluate your application section.
Putting it All Together – Exercises Three, Four & Five

1. **Ultimate Issue**

   Draw a box around the ultimate issue.

   Does the question include the facts that are legally significant to that ultimate issue? Doing so gives your reader a sense of context for the ensuing analysis.

2. **Phrase that pays**

   Use your NON-YELLOW highlighter to highlight the phrase that pays wherever it appears. Remember, the phrase that pays is the word or words that are in controversy in this case (e.g., “detrimentally rely”).

3. **Facts within the Discussion**

   With a yellow highlighter, highlight any references to the facts of the client's case that appear within the discussion.

4. **Reasoning**

   Use a third color highlighter to highlight each time you explain the reason why the rule applies or does not apply to the facts of the client’s case.

5. **Result**

   You should see all three colors of highlighter together; that is, you should have a sentence that states “Phrase that pays equals [or does not equal] concrete facts because . . . .” The order of these components within the sentence or you may use more than one sentence to include all three parts.

   **WARNING:** Do you have a big chunk of yellow at the beginning of your discussion of the rule? (i.e., BEFORE you've articulated the rule and/or explained the rule?) Note that most readers will not understand the significance of the client's facts before they understand the rule.
Write “rule” in the margin next to the sentence/paragraph in which you discuss how the governing rule.

Write “app.” in the margin next to the sentence/paragraph in which you discuss how the governing rule applies or does not apply to the facts of the client's case.

6. **Mini-Conclusions**

For each rule you have identified above, write “con.” in the margin next to the sentence/paragraph in which you state your conclusion about how that rule does or does not apply to the client's facts.

Note that some mini-conclusions will be combined with the application paragraph.

Does your conclusion appear at the geographical end of your discussion of that issue or sub-issue? If you have headings, at least some of your mini-conclusions should appear in the paragraph above a heading.

6. **Final Comment**

Do you have a clear idea of what you did well on this paper and what three things you most need to work on to improve for your next assignment?