Self and Peer Evaluation Guidelines

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.

2. Phrase that Pays

   Within the rule, 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 where ever it appears.

3. Application of Rule to Facts

   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, or in which you discuss alternate applications of the rule.

   ➢ You should see both colors of highlighter here; that is, ideally, you should have a sentence that says “Phrase that pays equals [for does not equal] concrete facts because . . . .”

   ➢ Did you repeat the phrase that pays, or did you use synonyms?

Reassembling Rules – Exercise Two

Articulation and Explanation of Rules

   Within each rule, 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 where even it appears.

   ➢ 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.
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?

**Putting it All Together – Exercises Three - 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?

2. **Facts within the Discussion**

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

3. **Articulation and Explanation of Rules**

   Write “Rule” in the margin next to the sentence/paragraph in which you articulate a rule that governs a particular issue or sub-issue (you will probably have at least one rule within each heading).

   Within each rule, 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 where even it appears.

   ➢ Did you have a hard time finding the rule? Have you neglected to state one explicitly?

   ➢ 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.

   ➢ 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?
4. **Application of Rule to Facts**

   For each rule you have identified, 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, or in which you discuss alternate applications of the rule.

   ➢ You should see both colors of highlighter here; that is, ideally, you should have a sentence that says “Phrase that pays equals [for does not equal] concrete facts because . . . .”

   ➢ Did you repeat the phrase that pays, or did you use synonyms?

   ➢ 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.

5. **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?