HOW TO WRITE A CASE COMMENT

Georgetown Journal of Gender and the Law
Georgetown Journal of Legal Ethics
Georgetown Journal of Law & Public Policy
Introductions

• Georgetown Journal of Gender and the Law
  • K. Daw, kkd49@georgetown.edu

• Georgetown Journal of Legal Ethics
  • Max Lesser, mgl78@georgetown.edu

• Georgetown Journal of Law & Public Policy
  • Erielle Davidson, erd26@georgetown.edu
What we will cover today:

• What is Write On?
• Reading the Packet & Packet Procedures
• Crafting a Case Comment
• Formal Requirements
• Timeline & Resources
• Q&A
What Is Write On?

• Write On is the only way to get on a journal
  • It will open on May 15 at 9am
  • You select your own 3 week competition window
  • DO NOT PURCHASE UNTIL YOU ARE READY TO COMPETE

• In order to participate, you must purchase a Write On packet online
  • Reduced to $20 in light of COVID-19

• The packet contains:
  1. Case comment
  2. Bluebook and Editing test
  3. Personal statement or resume (for some journals)
  • These requirements vary depending on the journal
Transfer Students

• There is a separate, but very similar Write On Competition for transfer students
  • The competition will include a case comment, Bluebook test, and personal statements/resume (for some journals)

• It is mandatory for transfer students to complete the competition
  • The 2020 Write On Transfer Competition is mandatory for all incoming students seeking membership on law journal as well as transfer students admitted after July 3, 2019.

• The Transfer Student Write On Competition is scheduled to take place **May 15th – July 22nd**
Scoring

• Case comment
  • Graded by three judges
  • Scores are then averaged to produce one score
• Bluebook and Editing test (graded by OJA Director and journal editors)
• Grades
• Resume and/or Personal Statement (for some journals)

  • Different journals rank/weight each factor differently—carefully review the comparison chart online!
What Should Students Consider When Ranking Journals?

- Think about
  - Interest in subject matter
  - Publishing opportunities
  - Grades/scores
  - Personal statement
  - Journal perks

- Learn by
  - Talking to current journal members
  - Visiting journal webpages
  - Reading the journals
Results of the Write On Competition

• OJA will match you to a journal based on the results of the competition and preferences

• Once you are offered membership on a journal, you **may not decline** in order to be placed on a different journal.

• You will be notified of your placement in **late August**
READING THE PACKET & PACKET PROCEDURES
Preparing for the Packet

• Attend the Case Comment Workshop! Good job so far.

• Read *Preparation for the 2020 Write On Competition: How to Write a Case Comment*
  
  • This guide will be available online in early May (the 2019 version is available now) and includes:
    1) Procedures & Write On Competition Requirements
    2) Technical Aspects of Writing a Case Comment
    3) Sample Case Comments
Procedures

• **Packet Purchase & Availability**
  - Price reduced to $20 this year
  - Do not purchase until you are ready to start the Competition
  - Preferencing open through July 22

• **Turning in Submissions**
  - Carefully read the Write On packet instructions
  - Upload the completed materials & supplemental materials to the competition website *early*

• **Write On Packet Contents**
  - Main case that you will analyze
  - Other cases, secondary sources, etc.
  - You may use *only* the materials provided in the packet
  - Remember to complete and upload the Bluebook test!
Restrictions

• You may use only the materials provided in the packet, a dictionary, legal dictionary, thesaurus, and your Bluebook.
• You may not consult any additional materials during the competition.
• You are NOT allowed to do any outside research.
• You may not discuss and/or receive any assistance from anyone during the competition.
• Do not contact current journal members or editors for help. Contact OJA directly.
CRAFTING YOUR CASE COMMENT
What is a Case Comment?

• A case comment is a short paper analyzing the decision in a particular case
  • For the purposes of Write On, the comment is generally limited to a maximum of seven pages of double-spaced text and three pages of single-spaced endnotes (but make sure you check the packet for specifics).

• Should provide your own original analysis of the case, such as:
  • *The case was decided incorrectly.*
  • *The court is correct, but for the wrong reasons.*
  • *The court missed the point.*
  • *The whole area of law is a mess, and you have a better approach.*
  • *The court is correct.*
  • *Some creative, dynamic idea of your own.*
Packet Materials

• Packet contains:
  • The principal case on which you are to comment
  • *Maybe* a lower court decision in the principal case
  • Cases that bear on the principal case
  • *Maybe* statutes and legislative history
  • *Maybe* law review articles
  • *Maybe* newspaper, magazine, or other periodical articles
Reading the Packet

Things to keep in mind as you read:

- Do not confuse a lower court case with the case that you are supposed to be analyzing. The other cases are included only to give you a basis for your comment on the principal case.

- You do not need to cite to every source in the packet. Your thesis will determine what you cite; some of the sources might be superfluous.

- Nevertheless, remember that the sources are there for a reason. A dearth of sources in your comment will be noted, so do your best to provide a detailed analysis.
Reading the Packet

- **Read the packet as early as possible.**
  - You can probably read everything in a day, but do what works best for you.
  - Take notes to stay organized.

- Read the principal case first, then decide how you want to read the packet:
  - **Chronologically**
    - Makes the most intuitive sense, so you can get an idea of the development of the law.
  - **In order of importance**
    - Also makes sense, but you will not have a very good idea of the order of importance until you read a few cases.
  - **Order in which the cases are given to you**
    - Takes less thought.
Choose Your Approach

• After reading, decide what your case comment will argue.
• The following slides provide examples.
“The case was decided incorrectly because…”

• Most common approach
• Demonstrate why the court’s analysis is wrong
• Must be careful not to mimic the dissent
“The court is correct, **but for the wrong reasons.**”

- Demonstrate that the court applied the wrong reasoning and explain why this was the wrong approach
- Must be careful to distinguish your reasoning from the court’s reasoning
“The court missed the point.”

• Analyze a different issue in the case that you think the court missed
• Make sure to incorporate the principal case and the other materials in the packet
“The court is correct.”

• Demonstrate that the court was 100% correct
• Address the relevant counterarguments
• Make sure not to simply repeat the court’s opinion
  • This can be tricky. It’s often easier to criticize than to agree.
“The whole area of law is a mess, and [suggest an alternative approach].”

- Very ambitious approach
- Use the principal case to suggest your own approach to the area of law
- Make sure your approach is logical, yields consistent results, and has public policy support
Some creative, dynamic idea of your own

• Also an ambitious approach
• Use the case as a springboard for an original legal idea of your own
• Make sure the materials in the packet support your idea
How To Craft a Thesis Statement

• Choose your approach
• Review the materials carefully
• Get to the POINT!
• A few examples
• Remember the big picture
How to decide your thesis

• As you read through the packet, did one view jump out at you?

• What feels most natural to you? What has the most support in the packet?

• Carefully noting and keeping track of your sources will help you with this. It may help to note which sources support each approach.
Get to the POINT

- Your thesis statement should be clear and concise statement of your argument.

- It is perfectly appropriate to use direct language, for example:
  - “This Comment argues that…”

- Clarity and brevity pay practical dividends. A concise thesis:
  - Helps you focus on your argument
  - Organizes the document for the reader
  - Conserves space
Examples

• This Comment argues that the Fourth Circuit should have relied on Virginia state law to dispose of the publicity element in *Sciolino v. City of Newport News*.

• This Comment argues that the Eighth Circuit should have applied a balancing test in analyzing the endorsement clause in *Wersal v. Sexton*.
Remember the BIG Picture

• Make sure your thesis is streamlined and hones in on the key point of your argument.

• Make sure your roadmap and the rest of your case comment provide the information supporting your thesis.
FORMAL REQUIREMENTS
Layout

- A case comment has two main parts:
  - Analysis—up to **seven pages**
    - Shorter than a true publishable case comment; you must focus on only the major points/critiques
  - Endnotes—up to **three pages**
    - All the citations in the case comment should be placed in endnotes that follow the analysis
Layout

• Read the instructions in the packet *carefully* for specific formatting details (different for the two parts)
  • Times New Roman, 12-point
  • 1-inch margins
  • Double spaced comment
  • Single spaced endnotes, with one blank line in between each endnote
  • Title page that lists your case comment title and packet number—does not count toward page limit
  • Submit in PDF if possible to retain formatting
Layout

• Typically, the analysis includes 4 parts:

1. **Introduction**
   - Facts, procedural history, and holding—2–3 pages
   - **Roadmap**—about ½ page

2. **Analysis**—3–4 pages

3. **Conclusion**—about ½ page

• When editing for length, avoid sacrificing your actual analysis
Layout

• All citations should be placed in endnotes
  • Read the instructions to make sure you format endnotes correctly

• The three primary endnote functions:
  • Direct citation: when expressly referencing information found in the materials
  • Supportive citation: when stating a legal contention that is supported by information in the materials
  • Ancillary points: to provide the reader with analysis that is useful but tangential to your main points

• Endnotes must be used when citing authority or when necessary to back up a proposition.
Layout

• Endnotes are formatted differently than the citations you learned in Legal Practice: Writing and Analysis class this year. Look at the Bluebook!
• Read Bluebook Rule 1.1(a) for the rules on placing the endnote call numbers within your textual sentences.
• Read Bluebook Rules 1.2–1.5 for the rules on using signals and parentheticals that are appropriate to the purpose of a particular endnote (direct citation, supportive citation, etc.).
• Read Bluebook Rule 3.5 for the rules about using “supra” and “infra” for internal cross-references.
• Read Bluebook Rule 4.2 for the rules on using “supra” and “hereinafter” as short citations in appropriate circumstances.
Structure

• Introduction
  A. Statement of Facts, including Procedural History
  B. Holding
  C. Roadmap
  ➢ The Statement of Facts and Holding can be switched, depending on whether the facts are more or less interesting/persuasive.

• Analysis

• Conclusion
Statement of Facts

• 1-2 pages

• Relay any facts that are interesting and are essential to your argument, just like Legal Practice: Writing & Analysis.

• Objective, academic tone
Holding

• ½ - 1 page
• Analogous to the “Statement of the Case” in a brief
• Explain the court’s reasoning behind the outcome
Roadmap

• ½ page
• Provide the reader with your thesis statement
• Lay out the different aspects of your argument, corresponding with your headings
• Convince the reader why this issue is important and how your argument demonstrates the optimal outcome
• Should be introduced with language like “This Comment will argue…”
Analysis

• Constitutes the **majority** of your comment
• Should be organized around headings and subheadings
• Remember, you only have 7 pages, so keep it relevant and concise
• Outlining is important!
What Makes an Effective Roadmap and Analysis?

• **Components of an Effective Roadmap**
  
  • Explains why the issue is important, describes the discussion and states the thesis.
  
  • Purpose is to inform the reader about what is coming so that the organization and relevance of subsequent material is understood.

• **Components of an Effective Analysis**
  
  • Organization corresponds to roadmap
  
  • Analysis ties to the thesis and argument using cases and secondary sources
  
  • Stays on topic and discusses only what is relevant to the analysis
Conclusion

• ½ Page
• Sum up the different prongs of your argument.
• Mirror your roadmap!
• Briefly restate the underlying reasoning for your argument and the outcome for which you are advocating.
TIMELINES & RESOURCES
Timeline: Non-working Students

- Write On Competition dates: **May 15th – July 22**
- Pick a 3 week window to compete that meets your needs. There is plenty of time to complete the competition on your own schedule. This is merely a guide.
- Remember to budget time for the Bluebook and Editing Exam.
Timeline: Non-working Students

• Many students find it helpful to do the Bluebook and Editing exam first.
  • If you want to jump right into the case comment, do it, but don’t forget to complete the exam!

• Read as early as possible.
  • Some students like to brief each source as they proceed.
  • Others like to plow through with minimal notes to get the reading done.
  • Do what works best for your learning style, but make sure you’re reading with a goal in mind: to analyze the principal case.

• Get a draft done as soon as possible.
  • Starting with an outline is helpful, as it keeps you focused and organized.
  • Once you get something substantive on paper, you’ll be able to locate the paper’s strengths and weaknesses.

• Leave time to edit—you’ll need it!
  • Ideally, you’ll be able to step away from your comment for a day and come back to it with fresh eyes. Whatever you do, though, you’ll need substantial time to edit.
  • You don’t want to be working until the last minute to get under the page limit.
Timeline: Working Students

• Try to get a few days of rest before Write On.

• Finish reading the packet as early as possible, so you can develop your thesis and keep organized.

• Set a schedule that works for you. Work methodically every night, setting aside a few hours for reading and writing.
  • According to OJA, Write On is designed to be completed in about five days. If you work diligently, you can space it out and get it done on time.

• Ideally, reserve a couple of days at the end to review, edit, and proofread.
Other Resources

- Eugene Volokh, Academic Legal Writing (3d ed. 2007).

- Remember, you cannot consult these resources or any other source after the Write On competition begins.
Questions?

• Ask us anything! Remember you can’t talk to any current Journal members once Write On begins.