

Structure of an Objective Legal Memo

→ Heading

- Includes the name of the person who assigned the research project, your name, the date, and the name of the client and a short description of the subject matter of the memo.

→ Question Presented

- Includes the legal issue that you have been asked by your client and/or the partner to answer. The issue should be presented in the form of a question.
- When writing the Question Presented, you should include three items:
 - Parties
 - Cause of Action
 - Facts relevant to the legal issue
- The Question Presented commonly begins with the words “Whether,” “Does,” or “Is.”
- For example: Does an attorney who fails to appear at his client’s trial commit criminal contempt of court under Atlantis law?

→ Short Answer / Brief Answer

- Provides a short answer (i.e., the conclusion) responding to the Question Presented (i.e., Yes, No) with a brief explanation providing the reasons for your conclusion, incorporating the relevant **facts** and **law** that give rise to your conclusion. The short answer should not include any citations.
- For example:
 - FACTS → The attorney did not research the effectiveness of a novel defense that McDonnell and his wife hated each other so much they could not conspire to commit a crime.
 - LAW → An attorney who relies on a novel defense in a criminal trial without researching it commits legal malpractice. The attorney was obligated to competently represent his client. Competent representation requires an attorney to thoroughly research the relevant law.
 - APPLICATION OF LAW TO THE FACTS INTO SHORT ANSWER → Yes, McDonnell is likely to prevail in a legal malpractice action against his attorney. His attorney relied on a novel defense, without researching its effectiveness even though

attorneys are obligated to thoroughly research relevant law, that McDonnell and his wife hated each other so much they could not conspire to commit a crime. The jury rejected this defense and convicted McDonnell of conspiracy and fraud.

→ Statement of Facts

- Provides an objective description of the legally significant facts (i.e., the facts that will be relevant to answering the legal question presented) and any background facts that may provide context. You should present the facts in a logical order but do not comment on the facts or discuss how the law will be applied. All facts that are discussed in the Discussion section should be included.
- Must include the names of the parties, key dates, key events relevant to each element of the applicable rules, and the jurisdiction.
- Be objective.

→ Discussion

- This is the meat of the memo. You should use IRAC, CRAC, CRRPAC, CREAC, or TREAT to identify the issue(s), discuss the applicable legal principles (including the elements and sub-elements of each issue), the relevant cases and how your client's facts apply to the rules. Compare your facts with relevant facts in the cases to analogize and distinguish the fact patterns.

→ Conclusion

- You should summarize your analysis and conclusion to the Question Presented. The conclusion should not include any citations.

How to Write a Discussion Section of a Legal Memorandum

The Discussion section of a legal memorandum should be structured similarly to how you would write a law school exam. Just as in a law school exam, you should assume that the reader has a basic understanding of the law (so that you do not need to explain basic legal principles) but that the reader does not know the precise rules of law and facts at issue in your fact pattern. As you would in an exam, you should educate the reader about the applicable legal principles, illustrate how those principles apply to the relevant facts, and explore any counter-arguments.

ISSUE

Begin with a short thesis sentence that briefly identifies the issue and the applicable rule and states a short answer. You should also mention, if applicable, the procedural posture of the case and the burdens and standards of proof.

RULE AND RULE EXPLANATION

Next, you should follow with a paragraph which states the rule, citing any cases or statutes upon which the rule is derived, setting out the elements and sub-elements of the rule and clarifying how they relate to one another. Although you should state the basic facts of the cases so that the reader has context for the discussion, the discussion of the cases should focus on general principles and the criteria that courts use to describe the rule, rather than on the specific facts and reasoning of the cases. You should also mention any rules of interpretation pertinent to the law you are applying. You should identify any undisputed issues and explain why they are not in dispute, then state the order in which the remaining issues will be discussed.

APPLICATION

After explaining the rule, you should compare the facts and the reasoning of the cases to the facts of your case, to the extent that the facts/rules in the cases are relevant. You will need to analogize and distinguish the cases, showing why they are similar or different from the facts in your fact pattern to explain to the reader why he/she should follow one case precedent more than another. You will also want to address any counter-arguments that could be raised but why you believe they will not prevail.

CONCLUSION

For each issue or sub-issue, you should conclude as to how you think a court would likely rule on your facts.