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1996

Law Library Briefs, Vol. 8, No. 3 (November, 1996)

William & Mary Law Library

Repository Citation

William & Mary Law Library, "Law Library Briefs, Vol. 8, No. 3 (November, 1996)" (1996). *Library Newsletter*. 36.
<https://scholarship.law.wm.edu/libnewsletter/36>

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LAW LIBRARY BRIEFS

The College of William and Mary
Marshall-Wythe Law Library



Volume 8, Number 3

November, 1996

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LIBRARY THANKSGIVING WEEKEND HOURS

The law school building will be closed on Thanksgiving Day, Thursday, November 28. When the building is closed student ID's will not activate the security system. Student ID's will provide early/late access on Friday, Saturday and Sunday of the Thanksgiving weekend. If you wish to enter the building early, you should check your ID to ensure that it is properly programmed to allow access.

The circulation desk will be staffed on Friday, November 29 and Saturday, November 30 from 10:00 a.m. - 3:00 p.m. Regular desk hours resume on Sunday, December 1.

ACADEMIC SUPPORT HANDOUTS ON RESERVE

By popular demand, handouts created by the Academic Support tutors are now available

on reserve. Some of your most dedicated (and amusing) 2L and 3L classmates have created sample outlines, problems and general study aids for reserve. So if you haven't heard about Professors Butler, LeBel and Coven's lingerie party (Torts sample question) or if you don't know what it means that "the declarant is available" (Hearsay Analysis in Evidence), stop by and check out the latest handouts on reserve.

We currently have materials for Torts, Con Law, Contracts and Evidence, with more being added all the time. Check the Professors Reserve Notebook under "Academic Support" and be sure to check the Administrative bulletin board for the times and days of the Academic Support tutorial meetings. . . .PSK

LIBRARY EXAMINATION HOURS

Extended hours for studying in the library begin Sunday, December 1 and continue through Sunday, December 22. During this period the building will be cleared and locked by campus security at 2:30 a.m. each evening. As the library circulation desk opens at 9 a.m. on Saturday and 10 a.m. on Sunday, you must ensure that your ID card is properly programmed to access the building earlier.

Restricted access to the law library begins Friday, December 6 at 5:00 p.m. and extends through Monday, December 23 at 5:00 p.m. During this period access is limited to Marshall-Wythe law students *and others who*

require the use of law library materials for research purposes.

Any non-law student or patron needing law library materials may conduct research here during the examination period. Dean Sadler provides study rooms for non-law students who desire a quiet place to study.

As the fall semester draws to a close, the library staff wishes everyone good luck on exams.



INTERLIBRARY LOAN

A reminder to all students eager to leave for home during the Winter Break and commence festivities, please **turn in your Interlibrary Loan materials** before you go

if the due date is before Jan 2. If you need the material when you return in January, you should request a renewal by December 15.

Please follow the above guidance, as it is vital we retain the good-will of the libraries that provide us with such excellent service.

Have a Wonderful Holiday!

...JP

NIGHT THOUGHTS ABOUT RESEARCH SKILLS AND THE PRACTICE OF LAW

A reference customer of the library from the outside community, one we will call Bob, was looking for "The Book on Suretyship and Guaranty". His neighbor, a student of this very school, told Bob that that was what Bob needed to know in order to understand his problem.

Bob simply wanted to know what his risks were, if he agreed to help his out of work friend, Hobbs, who wanted to start a business. Hobbs wanted Bob to sign a document Hobbs called a "guarantee" that would satisfy the commercial lenders that Hobbs was romancing, to finance his prospective business venture.

Bear in mind that I wouldn't pretend to be able to give experienced commercial legal advice and, acting as a librarian, I couldn't, even had I been able to. Still, as I told Bob about the admixture of statutory law and case law that spelled out the "law" here, which he was to go out and read for himself... it became clear that he needed to talk to a lawyer. He didn't need a close explanation of the risks of becoming his pal's guarantor. I think he knew that there were plenty of those. He did, though, need somebody who could sympathize with his pain. In the long run, he was at a crossroads between his own feelings of financial strain in providing for his family and his sense of loyalty to a fallen friend who was out of work and desperately trying to make a business for himself. It is likely that Bob didn't have any money available to invest in his friend's business voluntarily. And I'm sure he knew that the lender wouldn't and couldn't have any particular reluctance to accelerate the amount owed, if his pal's business idea weren't to take off.

Nowhere is it more true than in practical legal research that 90% of the work in solving a problem is in properly identifying the question. Bob's real problem wasn't surety law. Bob's real issue was how to tell his pal Hobbs that he wasn't going to put his house, his furnishings, and his family on the line to secure Hobbs' desperate venture. But back to the thought.... This kind of situation may help to illustrate the difference between analyzing a client's problem out in life and doing research for a paper, a note, or the infamous client B.

Most research assignments in school are open ended, directing the student or research assistant

or other colleague to find out about a particular idea, an issue, a doctrine... with a specific point of departure and some notion of what the answer will be.

Out in the trenches, though, the need will often be to figure out what the law is, as it relates to a particular client with a particular problem. Whether there will be litigation, testimony before an enforcement agency, or negotiation and compromise, the subject... the issue is the client's problem. It may be a tort claim. It may be a determination that whatever remedy there might be would cost more to achieve than the remedy would be worth.

In practice, after all, we're mere agents. Attorneys are, by the nature of their undertaking, hirelings, hired for what they are presumed to know or to be able to find out about. Our emphasis here, in the shaded groves of academe, is on the finding out about... for our own account.

When Bob, who was just a library patron a few paragraphs ago, comes to your office in a midtown high-rise, overlooking the Mainstreet River, it may have developed that his old friend's business has finally taken off, and manufactures just the kind of hydraulic pump Bob needs to ready his company's new 2002 Bobmobile for market. Press previews are to take place next month. The only hitch is that his neighbor Hobbs' hydraulic pump company, Hobbco, will have to finance the purchase of raw materials and components it will require to provide the 8500 pumps per week that Bob Motors needs for the new Bobmobile. And Hobbs' balance sheet is a little thin and the lenders want some assurance that someone with deep pockets, such as Bob Motors, will be willing to step in for Hobbs when the note comes due.

What is your job here? If Bob Motors is going to step forward, how is it to limit its exposure to the risk that Hobbs will be unable to pay its

suppliers? How do you design the deal? If there is to be a guaranty agreement or some form of suretyship acceptable to the suppliers, what will give Bob Motors the greatest protection. Can title to the completed pumps be assigned to Bob Motors before they exist? Can Bob Motors acquire a security interest in the supplies Hobbs will require to manufacture the pumps at the time the supplies are provided to Hobbs?

As those of you who have taken some commercial law courses have spotted, I haven't a clue about the answers to these questions. The point of these thoughts, though, is to suggest that 'research' for the practitioner may involve more than simply finding the law. I have set this question in a complex (to me) area, one involving common law issues, a variety of statutes, and even a Restatement that will help one to focus in on the answers. You also need to know what Bob Motors can do, how far it is willing to risk having to pay for the pumps AND pay separately for the supplies that went into the pumps, if Hobbco doesn't make it. You need practical information, in terms of the ways such arrangements can be structured. You need some preliminary information about the suppliers, to get a sense of how much or how little it will take to inspire them to sell to Hobbs on credit. Your research task as a lawyer goes beyond identifying and answering questions of law. You need to look to the law in question, to help frame the practical questions that need to be answered to put together an arrangement that makes sense or at least, sufficient sense to allow all the parties to the arrangement to go ahead. Assuming that the supplier and Hobbco are also represented, you will also have to know how much or little your client can do, toward meeting the demands of the others, before it ceases making sense for your client. If the others aren't represented, you will have to solve some dilemmas about whether "the deal" can be your client. If it cannot, how can you give advice as to the form the deal will take? How can you assure the others that a particular

arrangement will be legally all right without practicing law for the other parties in a patent conflict of interest.

Many of the research skills you have acquired or will acquire on behalf of client B, both the formal legal research skills, and the research on the facts and context of the client's problem, and the research on how to make things happen... persuading a court or negotiating with the opponent, all of this will help you in practice. The other kinds of learning and acquiring practical information that you practice in the corridors of the school... how you chose what courses to take, how you maximize your job opportunities and spring travel time... the know how skills you have developed here will also help you figure out how to be the best you can be in law practice. From one perspective, at any rate, it's all research and analysis. Bon voyage!
...BC

IN BRIEF

Interim Circulation Desk Hours. Monday, December 23 the circulation desk will open at 8:00 a.m. and close at 11:00 p.m. The law school building will be closed December 24 - 25 and December 31 - January 1. On these days student ID's will not activate the security system.

The library circulation desk will be opened limited hours from Thursday, December 26 - Saturday, January 4, depending upon the availability of staff. The circulation desk schedule for this period will be posted in mid-December. However, law students with properly programmed ID cards may access the building and library, except for the days the building is closed.

Regular library hours resume Sunday, January 5, 1997.

Exam Period Typing Carrel Usage. There are six typing carrels which students may use for study purposes. A sign-up schedule for these carrels is available at the circulation desk. Please remember that the typing carrels and student conference/video viewing rooms (rooms 244 & 245) may not be used for taking exams.

Library Lockers. THE DEADLINE FOR LOCKER CLEAN-OUT AND KEY RETURN IS FRIDAY, DECEMBER 20 BY 5:00 P.M. Lockers must be emptied and the locker key returned (with barcode and key tag attached) to the circulation desk. A ten dollar replacement charge is assessed for keys not returned.

Carrel Renewal. THE DEADLINE FOR CARREL RENEWAL IS FRIDAY, DECEMBER 20 BY 5:00 P.M. Carrels and any material left in the carrel over the holiday must be renewed at the circulation desk, or the materials will be bagged and taken to the circulation desk. Personal items and papers removed to the circulation desk and not claimed before mid-January will be discarded or sent to the College Lost and Found Department.

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