



## Episode 102: Reading Cases and Preparing for Class

Lee Burgess: Welcome to the Law School Toolbox podcast. Today, we are talking about something every law student will spend a lot of time on: reading cases and preparing for class. Your Law School Toolbox hosts are Alison Monahan and Lee Burgess. That's me. We're here to demystify the law school and early legal career experience so you'll be the best law student and lawyer you can be. We're the co-creators of the [Law School Toolbox](#), the [Bar Exam Toolbox](#), and the Catapult Conference. Alison also runs [The Girl's Guide to Law School](#). If you enjoy the show, please leave a [review on iTunes](#), and if you have any questions, don't hesitate to reach out to us. You can reach us via our [contact form on LawSchoolToolbox.com](#), and we'd love to hear from you. With that, let's get started.

Alison Monahan: Welcome back! Today, we're going to dive into one of those law school day-to-day realities: reading cases and preparing for class, because ultimately, you're going to end up spending most of your days reading and, well, preparing for class. Believe it or not, there is a right way and a wrong way to prepare, although there are options. This podcast is going to give you some valuable tips to make sure you are getting the most out of your study time. First, let's start by talking about why reading cases and preparing for class can seem so daunting and difficult. Lee, why do you think this is?

Lee Burgess: Well, I think the main reason is just the volume of work. I think often times, law students are surprised at how many hours they end up prepping for class. I think a common assumption that most law students should make is that they need about an hour to an hour and a half of class prep time for each hour of class, so if it's a four-unit class and you meet four hours a week, you're probably going to have at least eight or more hours.... I'm sorry, that was bad math. Let me try that again. If you have a four-unit class that meets for four hours a week, you could have four to eight hours of reading assignments just for that one class. It's typical that most law students are going to take like 13 to 15 units a semester, and the hours really start to add up. So I think the volume of work is probably the first reason that preparing for class feels like such a grind.

Alison Monahan: Right. I think if anyone can get away with reading four hours a week for their law school class, I'd like to meet that person.

Lee Burgess: True.

Alison Monahan: Because that does not sound realistic to me. I think your upper range of eight hours a week per class is probably going to end up being more accurate for a lot of people.

Lee Burgess: At least in that first year or first semester.

Alison Monahan: Yeah. Sometimes we say an average reading speed, once you're up to speed and you're not having to look up every other word in Black's Law Dictionary, would be 10 hours. Err, sorry, one hour per 10 pages. If you have often times 20 to 30 pages assigned per class, that means you're going to do two or three hours of reading for that class alone. Just that one class, that day. Not even the whole week. That day.

Lee Burgess: Right. It's really challenging. I think the other thing that's challenging or the other thing that makes the beginning of the first semester unique is a lot of these 1L classes start with these archaic, old English cases that are even more difficult to get through. Any case law can be challenging, but they start with something from the 1800s and they're using older English phrasing that's not even current legal terminology. They're using weird names. They're using, I guess, slang or common terminology for things we don't even reference anymore. In contracts, you'll read all these crazy cases about ships and different kinds of chicken or-

Alison Monahan: Like replevin.

Lee Burgess: Yeah.

Alison Monahan: You're just like, "What in the world are these people talking about?"

Lee Burgess: I know. Or in property, you're going to read some bizarre cases about foxes and all the stuff that we don't really worry about who was chasing the fox anymore necessarily, but in property law, that's a really big deal.

Alison Monahan: Right, exactly, and just, I think a lot of the concepts are new, too. In property, you'll probably rapidly encounter this idea of the bundle of sticks or whatever it is. So, you might think as a layperson listening to this, "Well, either you own something or you don't own it." Ha ha ha. Just you wait.

Lee Burgess: I know, right?

Alison Monahan: I think it could be conceptually challenging, and I think you're right. You can feel often times, particularly with these older cases, it's like reading a foreign language.

Lee Burgess: Absolutely. Some of these cases have a lot of mythology around them. Pennoyer vs. Neff is one that everybody groans because people even talk about it as like, "Oh, when you have to read that in the first year, it's impossible to get through." It's not that these old cases are impossible to get through, but it's going to be more laborious because it's not going to feel like reading a novel, guys. It's going to feel like maybe reading a novel from the 1800s or the 1700s. It depends on when it was written.

Alison Monahan: Right. I think most people have a misconception about what they're going to be reading. You might think, "Oh, I'll show up to whatever class I'm taking. I'll show up to Contracts, and on Day 1, I'll read a book that tells me what a contract is, and then we'll move on." That's just not the way law school works. On Day 1, you'll probably read three or four different cases. They might be about the meaning of a contract and they might all disagree with each other. You might walk out of class more confused about what a contract is than when you set foot in the class.

Lee Burgess: Yeah, and that's normal. Hopefully, that confusion will work itself out as the semester rolls on, but these early days could be very challenging. I think for top performers who go to law school, you typically don't go to law school unless you felt pretty confident about your undergrad experience. It can be very humbling to all of a sudden not be able to do your reading as fast as you could, not be able to synthesize it as fast as you could, not be able to understand it. I think it's one of those things, right? You're an undergrad. By the time you're finished with undergrad, you've been working in your major, you should be very comfortable with the landscape of the material that you're dealing with on a regular basis, and then you drop yourself into law school, it's a completely different ballgame.

Alison Monahan: Yeah, absolutely. Exactly. You've studied for four years on a certain topic and by the time you graduate, if you're doing well, you should be able to have a reasonable conversation about that topic probably with someone who is a scholar in the field and feel pretty confident that you are not completely talking out of your wazoo, but in law school, this is typically not something people have studied before. It's not an educational system that's necessarily immediately all that logical. It can be very unclear what you're supposed to be taking away from these cases, and so I think sometimes people fall back on that skillset they had before which is, "Oh, I'm going to work to memorize everything that's in these cases, and then on, it will be okay," which is not really the goal.

Lee Burgess: I also think that you can really get misguided by what other folks are doing. People love to talk in law school. They love to talk about what they're doing, how fast they are doing their work, how easily they comprehend stuff, and it can also play mind games with you. You really have to keep your eye on your own game. What's your end goal? What's your method? How are you preparing? And make sure you don't get derailed by a lot of the chitchat that happens in law school because a lot of people can feel very confident about what they're doing, but if you're a 1L, it is too early to be confident. Nobody has taken exams yet. There's been no gauge of who actually knows what's going on and who's actually able to get results.

Alison Monahan: Right. Sometimes you hear people on the internet or maybe your classmates or in a book or whatever it is saying, "Oh, you don't even need to bother reading the cases. You can just read a supplement. You can start this summer and just read the supplements. You'll be good to go." While I think obviously, [there is value in a supplement](#), I don't think that can substitute for reading the cases,

particularly not in the beginning of law school, because part of what you're trying to do is absorb by osmosis the way that legal thinking happens. That's part of what these cases are supposed to be teaching you is: how do lawyers think? How do judges think? How do you construct an argument in a legal fashion that is persuasive?

Lee Burgess: Right. Hopefully, your professors are using the Socratic method well. Using the Socratic method to have the class dialogue really builds on that thought process and that struggle that you're doing outside of class to start to learn these skills around legal analysis, making arguments, see how legal reasoning plays out in the courts or has played out or has changed over time. Hopefully, that's getting really distilled down for you in class, and if it's not, then hopefully, it becomes clearer with study and supplements, but if somebody does the Socratic method well, you should really be engaged in learning about these cases as part of class, don't you think?

Alison Monahan: I think so. I think people can just end up being really confused about what they're supposed to be taking away because sometimes, often, particularly in the beginning of law school, I think people come in and they want just the facts. "Just give me the facts. What's the law? Just tell me what the law is. I just need to know what the law is. If I know what the law is, I'm going to be good to go in the exam." Other people come in thinking, "Oh, well, you know, everything is arguable. There's not really any law. We could just make an argument whatever way we want."

Neither one of those is really accurate. They're both partially accurate and partially inaccurate because you need to understand the rules to the extent they exist, but you also have to understand the ambiguity and where they apply or don't apply, and what arguments about ambiguity you could be making. Is it about the facts, the law, policy? These are all the things that hopefully will become second nature to you by the time you graduate, but certainly probably not in your first semester.

Lee Burgess: Yeah, I think that's true. I think, would you agree that typically, the more prestigious of the school, the Ivy Leagues tend to be even more conceptual in class, less clear on what the laws you're supposed to be learning?

Alison Monahan: For sure. The funny thing is that the exams are not necessarily any different, but I remember my professor in CivPro in the beginning saying, "Well, I don't really find the rules themselves that interesting, so we're not really going to talk that much about those, but you should still review them on your own." Then we get the exam and it's a straight-up issue spotting, need to know and apply these rules that we had literally, in many cases, I don't think even bothered to go over in class.

Lee Burgess: I remember one of my professors who had gone to Harvard, my contracts professor, being in her office hours and having her say that she didn't really

know what civil procedure was until she studied for the bar, and then she had a moment of, "That's what we were supposed to be learning in that class? Because that's not at all what was covered at my civil procedure class."

Alison Monahan: I think our whole thing ended up being about fairness and equity, and then you get an exam that's like, is there personal jurisdiction?

Lee Burgess: Right. Everybody's law school experience is going to vary, but regardless, you've got to be engaged in class to also learn from the professors. I think one final point about why this is also really important is that your professors are drafting and grading your exams, and what they talk about in class is what they think is important. So, being engaged and present in class, and a lot of that comes from having done the reading and prepared adequately for class, means that you're going to have more insights into what's on the exam. I remember taking one professor a few different times, and by the last time I took her class, I was a master at figuring out what she thought was important because I've taken her class enough times. I'm like, "Oh, this is totally going to be on the test. I should make sure I write this down."

Alison Monahan: Often, they have tells, right?

Lee Burgess: Mm-hmm (affirmative).

Alison Monahan: If a professor spends a lot of time talking about a certain topic that seems not really that important, or if they keep coming back again and again and again to the same ideas, they're always applying some particular theory about this or that, that's something you probably want to pay attention to, because that shows that's what they're interested in. Also, if they're things they write about. One idea that you probably should consider is looking up your recent articles that your professor has written in the topic they're teaching you, because there's a very high likelihood those ideas are going to show up on their test.

Lee Burgess: Yup. Other things that could show up on tests could be certain current events, I've also seen that. Or even listen to what your professors talk about that's going on in their lives. I had a contracts exam that was all about moving because my professor was moving.

Alison Monahan: They're people. What are they thinking about?

Lee Burgess: Exactly. She was writing hypos about what was going on in her life, about all of the contracts that come up about moving and getting set up in a new house, which turns out, there can be a lot of them.

Alison Monahan: I'm sure. All right. Well, those are advanced level techniques, let's go back to the basics.

Lee Burgess: Sounds good.

Alison Monahan: How can people make sure they're preparing for class correctly and also make the most of this 15, 20, 30 hours a week that they spend doing it?

Lee Burgess: Well, first, I think it's important to set aside enough time to do the reading. This is something that we've talked about in a lot of [our time management podcasts](#), but you not only have to have the time to do the reading. You need to make sure that you're getting high impact quality time, you are focused, you can read without distractions, you're not getting interrupted all the time, because then you're just going to start wasting time. You think it sounds slow to read one page every 10 minutes or so. If you're having your phone go off the entire time or people interrupting you or trying to be at Starbucks and there's a lot of noise and distractions, it's going to get really long really fast.

Alison Monahan: Yeah. I think it's also important to know yourself. For example, I go a little bit crazy if I'm trying to read in a quiet corner of the library. For some reason, my brain is just active and I get distracted by everything, but for me, I can actually go to a coffee shop and read and focus. You have to know yourself. You have to know what works for you, but regardless of where or how you do your work, you need to do it in focus chunks when you are actually alert. If you're trying to read, if you're a morning person and you're trying to do your reading at midnight, it's probably not going to be very effective.

Lee Burgess: Yeah, I think that's absolutely right. Try different things out. Some people also have a time limit for how long they can do this sort of work and remain focused.

Alison Monahan: Well, I think everyone has that.

Lee Burgess: Well, everyone has a limit. It's just different of what those limits are, but you read books about the optimum time to sit in one spot and focus. Sometimes it could be 45 minutes for somebody or no more than 90 minutes. You should just try different things. If you find your mind wandering, that you're not in a good place to keep up with what you're doing, then try and figure out what you can do to break it up and then come back and remain focused.

Alison Monahan: Right. I'll also literally sometimes set a timer. If I want to work on my Spanish grammar, I'll literally set a timer for 30 minutes, and at that point, I have to go and pick up the book and I just have to get started. That could be a good way if you're really procrastinating, is you just set a timer and you make yourself open the book. It's not even like you have to read 10 pages or whatever. You just have to sit there with the book open. Probably, you're just going to start reading at some point, and then once you start, it's going to be less painful and you're going to feel better about yourself. I think you have to carve out these blocks of time, whether it's on the weekends or a certain time during the day. I always found it interesting, the people who could read in like 20-minute chunks between classes and things like that. That never worked for me.

Lee Burgess: No, me neither. So, when you're reading, it's also really important to, I think, do something active to engage in the reading. A lot of people like to use a pen or a highlighter to mark up the book, some folks are going to book-brief, which we're going to talk about more in a second. But one of the things to think about is to not highlight or underline every single word because that becomes-

Alison Monahan: Yeah, this shouldn't just be mindlessly underlining.

Lee Burgess: No. If this was a visual podcast for some comic relief, I would actually go to my bookcase where I still have a few of my favorite textbooks because—I don't know why, I still have a few of them—but I could show you how I thought every single word in some of those early cases were important, and let me just own it, they weren't. They weren't.

Alison Monahan: You don't know that.

Lee Burgess: You don't know that.

Alison Monahan: That's part of the process.

Lee Burgess: Right, but you need to keep in mind that if you find yourself highlighting entire paragraphs, you're not actually zoning or having some sort of laser focusing to what is in that paragraph. Why is that paragraph important? Is it a new idea? Is it the same idea? Starting to work with the material and identify what's in each case is very important. You want to also keep in mind what the structure of the case is and what are the things your professor is likely going to ask you as you read.

Alison Monahan: Right. In the beginning, obviously, you don't really know what's important. You've never done this. We're going to give you, in a second, a list of some things to look out for, but also, that's one of the reasons you go to class and pay attention, is if you are massively highlighting sections of the case that your professor never touched on, those are probably not the most important pieces of the case. It's something you're just going to get better at over time, but in terms of structure, basic things like the names of the parties. Which court was this? Are you in a federal court? Is it a state court? Is it the Supreme Court? Is it a trial court? Is it an appellate court? These things have meaning. They actually matter. Sometimes the judge is important. If you see a case by Learned Hand, you will rapidly come to realize Learned Hand is a very famous judge. Cardozo is a famous judge. Posner is a famous judge. Do these have more or less significance? Who knows, but something to pay attention to.

Lee Burgess: You're going to start seeing some of those rules come up and have the names of these judges attached to them, so they're pretty important.

Alison Monahan: Right. The same with Supreme Court cases. If we're talking constitutional law, it might matter if it's a Scalia opinion. That's going to be very different than if someone else wrote that opinion.

Lee Burgess: Very true.

Alison Monahan: What else? Those are the super basics. So then, the procedural history like how did this case end up happening? This can be a little difficult because you're generally reading appellate cases, so you don't have a lot of the background of the really interesting stuff. I say as someone who clerked on a trial court, but just the basics of like who filed the case, who appealed it. This is how you develop your legal judgment, understanding like, "Well, why would this person have appealed it? What were the grounds for appeal," because those things matter.

Lee Burgess: Who is the person who's asking for the court to review? Because in criminal cases, I think it can be pretty clear. It's the defendant usually who's asking for that, but in civil cases when you have two parties, it can get pretty confusing. Sometimes they switch the order of the parties because...

Alison Monahan: Well, and sometimes, yeah, one of them might have appealed something and then the other counterclaimed. The procedural history can get very complicated, and depending on the class, that might be really important or it might not be that important at all.

Lee Burgess: Right, but it's just a good idea to try and figure out what's the story of this case that got it to where this opinion was made. Some professors are really into that, not just in your civil procedure class, and they're going to ask you about it if you get called on.

Alison Monahan: Right. Actually, there's an interesting series of books one of my professors wrote. It's called ... I think one of it is called [Constitutional Law Stories](#) and something similar in a different area, but it's really the backstory of some of these famous cases.

Lee Burgess: That sounds interesting.

Alison Monahan: Yeah. Probably don't read that alongside of your actual reading, but if you are interested, a lot of these cases are interesting in and of themselves.

Lee Burgess: The other thing that you want to make note of are the facts, but make sure that you aren't noting every single section of the facts. One of things that you struggle with in the beginning is what's important about the facts, and as you-

Alison Monahan: Right, what's legally significant?

Lee Burgess: What's legally significant. You got to learn what that is, but the idea of legally significant facts, which is a phrase you should hear over and over again in law school, is what are the facts that had any influence in the outcome.

Alison Monahan: Right. What does the case turn on?

Lee Burgess: Exactly. If the defendant has brown hair, and in that's in the fact pattern, in the case, but it doesn't matter that the defendant has brown hair or black hair or blond hair, if that doesn't change the case, then maybe that doesn't need to go in your brief or be noted in your book brief because that's not legally significant.

Alison Monahan: Right. Yeah, so that's part of, again, why you go to class, is if you've highlighted a bunch of facts that your professor never talks about, probably, those were not legally significant ones and you need to be looking at different ones.

Lee Burgess: Yes. Then there's, of course, the issues. Alison, as the person who loves issues, and clerked, why don't you give us a little primer on what the issues are in a case?

Alison Monahan: Well, the issue is basically what is this case about legally speaking, and that requires that you understand the law that applies, which is a large piece of the reason you're reading this case, is to extract that law, preferably at different elements. You can't just ... One issue could conceivably be, "Well, was plaintiff negligent?" Okay, that is a legal issue, but we can't really analyze that without saying, "Well, what was the duty? Did they breach the duty? Was there harm? What were the damages?" You're really looking in a pretty granular level about the issues here.

Lee Burgess: Usually, an appellate case is not answering the question of just, "Was someone negligent?" They're arguing over what was the standard of care as part of duty. They're arguing over something that's pretty specific. Sometimes one specific thing, but there's usually a very laser focus.

Alison Monahan: Right. What people have to understand is at a trial court, you're asking the question, "What were the facts? What happened?" Then, of course, you apply the law, but really, it's like, "Okay, we find that this is what happened, and based on what happened, here is our decision about how this case should come out." Then on appeal, you don't appeal everything. You appeal some very specific legal issue, so, like you said, it's like, well, the question on appeal might be, "What was the duty of a child in this situation?" So then, you end up reading this entire case about the duty of a child without necessarily having the context of how that fits into the bigger picture of negligence, and that's the challenge, really, of law school.

Lee Burgess: Often times, your casebook is taking each part ... When they teach negligence, they might have a case that's about the overarching idea of negligence, but it's possible they won't. It's possible that the first case is, "Let's look at duty, which

is part of negligence, but then let's talk about duty for a really long time, and let's read 15 cases on duty."

Alison Monahan: "Of all different types of duty. What's the duty of a bystander who starts to give first aid," and you're getting totally obsessed over, "Well, what if it's a doctor who's the bystander who gives first aid," which, actually, I think there is a different duty.

Lee Burgess: I think so. Yup.

Alison Monahan: It's very easy to go down this rabbit hole of being like, "Well, what if it's a nurse," without having any real context for how you would use this material because when you get a question on an exam, it's going to be a scenario with like 18 different people in it. One of them falls out of a tree, and someone else who's a medical student goes to their aid and then does something stupid, and you're left going, "Okay, I know I read a case about a doctor, but how does this fit together?"

Lee Burgess: That's one of the challenging things about preparing for class and moving through the semester, is one of your jobs as you're pulling together these briefs as you're preparing for class is to try and start to see how these cases fit together. Casebooks are put together and your syllabus is put together, hopefully, with a story or a plan to explain the law to you. These cases are going to build on each other. They're going to be all about the different types of standard of care, and so you're going to have a whole list of all the different rules about the different types of standard of care.

You may have minority and majority opinions. You might have case law that goes against each other. You're going to have all this law that you're going to be able to talk about that in the outlining process, you're going to fit together, but as you take case by case or one day's reading, you might have three cases on standard of care, and your job is to say, "Okay, here were the legal issues in each of these three cases. What is the difference in what happened in each of these three?" Because the professor is going to want to talk about each one because they're not all going to be the same. If you think they're all the same, then you've missed the point.

Alison Monahan: They may ask you, "Well, what's the holding of this case?" What that means really is what did the judge decide, essentially. You might also hear "Black Letter Law." Sometimes that's the holding and sometimes it's not. Say the appellate judge is a nice person and the casebook editor is a nice person. You might get a paragraph or two at the beginning of the law section that basically more or less explains the law of negligence to you. "As was in this case, *whoever v. whoever*, negligence requires these four things," and that might be why you're reading this case, is you're supposed to write down those four things and that is the law of negligence.

Lee Burgess: Yup. Exactly. After you do the legal issue, then you want to say the holding. Make sure you note where that is, that that's what the court decided. You want to note any law that the court applied. That's what Black Letter Law typically is. Then you've got to move on to the legal reasoning: why did the court decide what it decided? That's probably what you're going to be spending time in class talking about.

Alison Monahan: Well, and why was there even a dispute? What are the two different sides of this argument?

Lee Burgess: Right, because it could be that they're trying to create new law that didn't exist before. New standards. It could be that they have competing ideas and they've got to pick one.

Alison Monahan: Exactly. Yeah, they haven't decided, or they've got some old case from like 1722 that says no one can ever be libeled for anything. "Hmm. Maybe this is not really what we want to do in modern world." You've got a lot of stuff to make sense of in every case, and it can be kind of complicated.

Lee Burgess: It can, but this is why I think [briefing](#) in some way helps you try and organize your thoughts and pull out these important elements in the case so you can track them and refresh your recollection before class, and if you get called on, have some notes to really guide you. That's where I think a lot of law students start on the wrong path, is they forget the point of the brief. A brief is not a recitation of the case. It's not a five-page document.

Alison Monahan: It's not a book report.

Lee Burgess: It's not a book report. It is brief. It is supposed to be notes to yourself so you can remember what happened in the case or remember these important things. These can be in book briefs where you just mark up the book. You can use different color highlighters. I know, Alison, you used to book-brief a lot. I think we have some [picture examples](#) linked to one of the blog posts in the notes where you guys can see what book-briefing really looks like.

Alison Monahan: Yeah, I did, I think, one written brief when they required us to. I was like, "This does not seem helpful to me. I'm a visual person. I would rather doodle in the margin, make some brief notes at the end and draw a little picture, and highlight some stuff," but I am pretty good with factual recall, so if I saw a little picture, I would remember, "Oh, yeah, this was the case where the medical student fell out of the tree," or whatever, and then it all came back to me. Some people do, some people don't, so I think you have to do whatever works for you.

I think sometimes students get so obsessed with briefing and it takes so much time because they're super concerned about being called on and maybe they say something that's not perfect. I think obviously, you want to be prepared,

and it's nice if it seems like you're prepared if you get called on, but ultimately, that's not really going to impact anything that much. You want to make a good faith effort, doing the reading, taking some notes, but it's not a situation where you have to memorize the entire case beforehand because that's not really what your professor is looking for.

Lee Burgess: I did a number of typed briefs, but if I had to do it over again, with what we have really learned about [handwriting](#) and the importance, or the link that handwriting has to retention of information, I would probably hand-write a lot of my briefs, either book briefs or just a notepaper, because, one, I think I remember things more, and two, it prevents you from creating the four-page book report.

Alison Monahan: Right. Exactly. You can't transcribe the entire case if you're actually writing it out by hand what the key points are. I just think this is something with briefing to pay attention to, is: How much time is it taking you? Is it helping you in class? And is it really helping you understand, distill, and summarize the information, or are you doing it because you're so anxious about not knowing something that you just feel like you have to get everything down on paper? Which is pointless. It's already in your book.

Lee Burgess: Right. The stuff that we just talked about that you need to note in a case, the names of the parties, the court the opinion came from, the judge, the procedural history, the facts, the issues, the holding, the Black Letter Law, and the legal reasoning, are all things that you want to note in your brief. You can also add a few things. Maybe your professor ... I had a professor who always raised the government's argument and the defendant's argument, so I had to have briefs that always had the government's argument and the defendant's argument because that's what he asked every time he cold-called on somebody.

I also think a few other notes that can be very helpful for students to include is a note to yourself about why this case is in the casebook or the reading assignment. It's what we just talked about. All these cases are put together to tell a story. Are they setting a standard of care about children where the next one is about the bartender at the bar, where the next one is about the bystander? Why is this part of the overall story? If you can figure that out, I think that's also going to create meaning for you when you end up talking about these cases. Also, make notes of any questions that you have. I think this is something that students often tend to miss out, because when you're reading the case, that's when you're going to come up with questions of why something doesn't make sense. You should take them to class with you and ask them. You're paying a lot of money to go to class. Ask questions.

Alison Monahan: Right. Another thing I've seen which I think makes a lot of sense is even before you read a case, it can be helpful, if you've covered part of a topic, to think about what questions do you still have about this topic and is this case going to answer them. The whole point here is you need to be an active reader,

someone who's engaging with material and asking questions and thinking about it, not just getting from Page 1 to Page 20 and putting your book away and being like, "Okay, done with that. I never have to think about it again." You're going to be more effective if you're curious about these things and thinking, "Well, what's missing here? what do I not know yet, and does this case fill in any piece of that for me?"

Lee Burgess: Yeah, I think that's a really good point. Another thing to think about is a lot of folks find value in doing a brief, if you're going to do a handwritten or a typed brief, after you finish reading the case, or even if you go back to do the book brief and make more notes in the case after you finish reading, it's a great review of it. Then it allows you to take that step back and say, "Did I understand what was going on in the case?" Again, if you brief too much while you're reading, it's likely you're going to track too much information because you haven't gone to the end yet. You don't know what's important until you get to the end.

Alison Monahan: Yeah, exactly. Yeah, you should not be making notes as you go about what the important, legally significant facts are before you've read the law or the legal reasoning because you have no idea.

Lee Burgess: Right. Exactly. This is something else that we have seen students end up doing—Alison, I think we've had tutoring students and other students that we talked to do this—is they end up reading cases a number of times.

Alison Monahan: Yeah, love to do this.

Lee Burgess: Why do you think students feel like this is a good use of their time?

Alison Monahan: Well, I think there this temptation to feel like I need to know everything before I go into class. People don't like uncertainty. "Well, if I could just read it again, I'm sure it would make more sense." It's not going to make more sense. I think we go back to the old "good confusion" and "bad confusion" idea. If you get to the end of a case and you literally have no idea what the case was about or what was decided or anything, well, that's a problem. But if you get to the end of the case and you think, "Well, I'm a little confused about how this fits into the big structure. I'm confused about how two of these cases relate to each other," you don't need to reread them at that point. You need to go to class and listen to the discussion and ask those questions. Also, it's just easy. It makes you feel like you're being really diligent to read a case for the third time, but I guarantee you, there are other things you could be spending time on that are going to be a lot more effective.

Lee Burgess: Yeah, I think that that's true. One of those other activities that can be more effective are supplements, if used well. Sometimes supplements can help you, but sometimes they can also be a time-wasting activity.

Alison Monahan: Yeah, absolutely. I think used wisely, supplements can be invaluable and really help you get through law school, but if you use them unwisely, they can waste a ton of time, they can give you a false sense of security, and they can end up not helping you at all.

Lee Burgess: I think one of the main things that students can find themselves doing is spending a lot of time reading about things that aren't going to be covered in their class. It can be hard at the beginning to really understand that these topic areas are gigantic. People study contracts or real property or these scholarly areas for their entire careers. If you're taking one semester on property, you're not going to talk about every single thing in property. If you get too obsessed with your supplement, you could end up spending a lot of time studying stuff that's not going to be on your exam. Showing to your professor that you read all of that stuff does not make them happy. They want you to learn what they think is important, which is what's on the exam.

Alison Monahan: Yeah, absolutely, or you may be taking a criminal law class where your professor, for whatever reason, decides you're not going to talk about the Model Penal Code. Well, pretty much every supplement you open up is going to talk about the Model Penal Code, so if you read a supplement and you start talking in your exam about, "Well, the Model Penal Code says this," that's not going to end well.

Lee Burgess: Yeah, exactly. Make sure that if you're spending time doing supplement reading, that you're getting something out of it and that it is helping your understanding in class, or save it 'til after class and you can use it as part of your deep work.

Alison Monahan: Right. I think there are different ways to use them. Some people like to have an overview before they start reading the cases so they know where the section is going. That's completely valid as long as you don't rely on it too heavily, but you might want to sit down and just skim through a basic supplement about whatever topic area is coming up next, and then you have some context. You can understand how the things fit together, or probably more likely is when you've done the reading, gone to class, and it's time to sit down and make your study aids, then you can pull out the supplement and understand, "Oh, okay. This is the basic outline of the law here." Then from there, you fit in all the different pieces that your professor is focused on.

Lee Burgess: Yup. Definitely. I think lastly, to always keep in mind through your law school experience, but especially in the beginning, remember that it's okay to struggle. Giving up on the struggle and just resorting to reading canned briefs or Googling cases before you read them isn't really going to get you where you need to be, unfortunately.

Alison Monahan: Right. Yeah, I think if you're really struggling with a certain case or in general, looking at a brief that somebody else made on Quimbee or wherever you find it, in a book, that can be helpful, but you just have to be careful not to rely too

heavily on that. I know someone who went to school with me at Columbia who ended up failing the bar exam multiple times, and part of the reason ended up being basically because they hadn't done the reading as a 1L.

Lee Burgess: Yeah, which is something I think 1Ls forget, is that the bar exam is all about these classes. These classes are going to find you again, so blowing them off is not a good idea, because they're going to rear their ugly heads bar exam time.

Alison Monahan: Also, a lot of these briefs ... Everybody has a different viewpoint. Everyone's professor has a different viewpoint. You can end up wasting a lot of time because a lot of these cases have multiple threads of law going on at once, and your casebook author or your professor might have picked this case for a completely different reason than someone else. You might end up reading the same case in three different classes. It might have a CivPro element, maybe there's a contract element, and maybe you read it in an intellectual property class because it's about patents. You could pick and choose a lot of different stuff to think as important, and that's part of what you're learning to do when you do the reading.

Lee Burgess: That is a good point. I had forgotten that sometimes you will see a case in a different class that's there for a completely different reason. Kind of fascinating.

Alison Monahan: Yeah. It's not like judges are writing these cases for law students. They're writing them for real life. Typically, any sort of case that ends up going to trial or being appealed has multiple issues going on at once.

Lee Burgess: Yup. That, really, full circle, is why it's important to learn how to read cases because when you start practicing law, one of your jobs is likely going to be doing research and writing, which is what most lawyers spend their time doing. And you have to read cases and write about them and understand them and be able to pull out the legal reasoning and what the court said and the Black Letter Law so you can write motions or talk to your supervisor about what the state of the law is, and you're laying the foundation for this work right at the beginning of your first semester.

Alison Monahan: It's one of those things that in the beginning, even though it doesn't seem like it, you actually do have time built in to learn how to read a case because you're reading load is actually, sorry to tell you, not as heavy as it's going to be later.

Lee Burgess: That is true. You are right.

Alison Monahan: If you skip this process in your first semester, then when second semester rolls around and your professors assume you know how to read cases and do briefs and go to class and get the main points, and suddenly, instead of having 20 pages of reading a class, you might have 40 pages, so you need to be better at this by the time your workload increases.

Lee Burgess: Yeah, and you will.

Alison Monahan: You will, only if you struggle through it now, but you may as well start struggling.

Lee Burgess: Yup. With that, I think we're out of time. But before we finish up, we wanted to take a second to let you know that you can check out our Start Law School Right course on our website at <http://lawschooltoolbox.com/start-law-school-right>. This on-demand course includes feedback from one of our amazing Law School Toolbox tutors, and you even get feedback on briefing.

Alison Monahan: Woohoo!

Lee Burgess: Woohoo! It's going to help you understand how to excel academically from Day 1 and hopefully answer a few of the common questions you might have about things like class prep. Check it out and feel free to contact us if you have any questions. You can start prepping for your 1L year at any point.

Alison Monahan: Right, because we actually literally have you read a case and brief that case and get feedback on, "Are you getting the right things? Are you not?" You go through the entire thing and end up taking an exam that actually relates to that case.

Lee Burgess: Yeah.

Alison Monahan: It's pretty fun.

Lee Burgess: It's pretty exciting. If you enjoyed this episode of the Law School Toolbox podcast, please take a second to leave a review and rating [on iTunes](#). We'd really appreciate it. Be sure to subscribe so you don't miss anything. Our episodes typically are released on Mondays. If you have any questions or comments, please don't hesitate to reach out to myself or Alison at [Lee@LawSchoolToolbox.com](mailto:Lee@LawSchoolToolbox.com) or [Alison@LawSchoolToolbox.com](mailto:Alison@LawSchoolToolbox.com), or you can always contact us via our [contact form at LawSchoolToolbox.com](#). Thanks for listening. Good luck with your class prep. We'll talk soon.

**Resources:**

- [Start Law School Right Course](#)
- [Best Practices for Using Supplements](#)
- [Podcast Episode 95: Top 1L Questions: Time and Life Management](#)
- [Constitutional Law Stories, by Michael C. Dorf](#)
- [Is Handwriting Notes a Good Thing or a Bad Thing?](#)
- [How to Brief a Case in Law School](#)