



- Lee Burgess: Welcome back to the Law School Toolbox podcast. Today we're sharing tips for reading a case. 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 career-related website [CareerDicta](#). Alison also runs [The Girl's Guide to Law School](#). If you enjoy the show, please leave a review or rating on your favorite listening app. And if you have any questions, don't hesitate to reach out to us. You can reach us via the [contact form](#) on LawSchoolToolBox.com, and we'd love to hear from you. And with that, let's get started.
- Alison Monahan: Welcome back. Today's topic actually came from a listener question, so feel free to send those in. This listener asked us to clarify how to find the black letter law in a case. And although this might seem simple, as with many things, it really isn't when you first start doing it. And for new 1Ls particularly, but really for anyone, this is a very critical skill, because you spend so much time reading cases and preparing for class, and you're trying to learn really how to tell what is important about a case and why this case is even included in the casebook. And in real life, obviously, you're going to need to do this through your own legal research. So, as much as reading cases can at times be frustrating and boring, you need to know how to do it efficiently, even once you are practicing. This is probably not shocking to people, but particularly if you're a litigator, you're going to keep doing this. So Lee, do you remember, before we dive in, what it was like kind of put yourself back in the beginning stages of law school to actually read these cases?
- Lee Burgess: I do. I was thinking about this prepping for this podcast, and I was remembering how frustratingly slow it was to read. It was just like walking through taffy or something like that, because the language... Oftentimes in the beginning of the semester, you're also reading very old cases, so the language is very old and feels very clunky. There's often terminology that you don't really understand. It's term of arts, and so you're looking up things in Black's Law Dictionary or Googling them, because it's really hard to figure out what's going on. There's a lot of Latin that you may have never heard of, and it's just really dense and it makes you feel like it's almost an insurmountable goal to be able to read this stuff efficiently and easily.
- Alison Monahan: Right, because probably it's that you don't know in the beginning what you're going to be able to skim over. So, if some Latin word comes up, any one of those words might actually be really important, so you have to look it up and be like, "Oh, that's what *res ipsa loquitur* or whatever means." And then you realize, "Oh, that's actually a really important concept that's going to keep reappearing." Other ones, they just show up and you never hear about them again, and you realize at some point, "Oh, that's just some procedural thing I don't really need to worry about." But you don't have any way to separate this



stuff out in the beginning. I definitely remember it taking forever to read. I remember my first day of Torts, I think a professor had given us a case, it was one page long. It was an old case and we were all kind of like, "This is nothing, read the case, whatever." And we spent a whole class on that one page. Some professors like to have you read a bunch, and other ones just want to have you read a tiny little bit. I mean, obviously, those are the best classes to be in.

Lee Burgess: True.

Alison Monahan: But at the same time, it does point out how much content can be in just a page or two of what you're reading.

Lee Burgess: Yeah, that's very true. And I don't think I fully appreciated when I started in law school the fact that a casebook has been edited to try and make the pieces of the cases that are left, what you really need to understand. So once I started practicing or doing full legal research, when you're getting these very long case opinions and you're reading page after page of facts and you're realizing... Or it's very dense and there are so many legal issues and you're really looking for your individual legal issue. It's very different than a case in a casebook that has been heavily edited, so what's left, you've kind of got to be able to go through.

Alison Monahan: Yeah, and I think that this is kind of a pro and con situation. On the plus side, there's less to read; on the minus side, everything on that page is there for a reason. It's like you said you, in a normal case, it might be a 100-page opinion and you actually need five of those pages. But in the casebook, they've edited it down to just those five pages, and so you've got to kind of think about, "Alright, how was this organized? Why did my professor assign it?" All these things, because basically, everything on that page in the casebook could potentially be important.

Lee Burgess: Yeah. If they left in a footnote, make sure you read the footnote.

Alison Monahan: Oh yeah, one of my professors was a stickler on that.

Lee Burgess: There're some really famous footnotes. Footnote Four, very famous.

Alison Monahan: Yeah. I was in fed courts and he was always like, "Footnotes are the most important part, that's where they put everything good." And he would call it out if somebody was in class and on-call and they hadn't read the footnotes. You don't get to skip those.

Lee Burgess: Yeah, it's so true. No, you don't get to skip them. So other than just being edited, I also think it helps to realize that casebooks are trying to kind of tell a legal story. They are organizing the cases in a way, so it is important to just think about it, that you're not just pulling stuff out of the air. When you do your own



legal research, you're going to toss cases to the side that are not important. Your professor may not have you read the entire casebook, but it's likely that if they're picking through the casebook, they are trying to tell a story about the law, and it has a plan. And so, you just want to make sure that you're reading it through that lens.

- Alison Monahan: Right, because some very smart people, lots of them, have actually worked on this casebook and kind of thought about, "How do we teach this area of the law through cases?" I'm sure there are many meetings and arguments about picking this one case over this other case. So if they're in there, there's probably a reason. And I think when you're sitting down to read a case, it can often be good to kind of ground yourself in where you are in the big picture. And you can use your syllabus to do this, you can use the headers in the book or the table of contents. You can conceivably even use a supplement, but you want to have some idea. If I'm in Torts, are we in the section of the book about duty or are we in the section about breach? So that you have some understanding of what you're going to be reading. Is this an expansion of something you've already been studying, or have we switched topics completely? I think having that type of context can really help people figure out... Because we're not just looking for what is the literal rule of law here; there's a lot of other stuff going on. And so, having that context, I think can help you see, "Oh, we've switched to a totally new topic. Maybe this is laying the foundation."
- Lee Burgess: Exactly.
- Alison Monahan: Versus, "We've been doing this for two weeks, and maybe this is some nuance that is important."
- Lee Burgess: Yeah. So, when you are grounding yourself about where you are, you can think about where you are in the organization of a casebook. Generally, casebooks are kind of organized so cases are doing different things. So, cases early in a chapter can sometimes be very old and even outdated law. I know in my Contract class, you're reading cases from old England.
- Alison Monahan: Oh, property. Property is the worst for that.
- Lee Burgess: Property, the fox.
- Alison Monahan: Yeah, the freaking [fox case](#).
- Lee Burgess: The fox case.
- Alison Monahan: I still don't think I understand the fox case.



- Lee Burgess: Some of the stuff, everybody reads it, so you have to be able to laugh when somebody mentions the fox case in real property. So you could have some old kind of original law. And then also cases early in the chapter can provide just the general rule statements, these general black letter law statement to the rule. And then you're going to have later cases probably explain how the rule is applied to different fact patterns or highlight nuances in the application. Because sometimes, especially if you're in a class which is about common law – so the cases are making the law, versus a statutory class where the statutes are making the law and the cases are interpreting those statutes – you're going to have to have a case make the law, and then that law is going to be tested over and over again. And these new opinions are going to kind of shape how the law is applied, so you want to be able to understand what's the point of that case. The other thing that can come up in casebooks is jurisdictional splits. Sometimes not everyone agrees on how the law should be applied. There's often like a New York way to do it, and a California way to do it. That's one of the typical ones. Or a modern way to do it and a traditional way to do it. And so, sometimes cases will just be to show you that there are multiple alternatives of what law to apply, and that stuff is usually tested on your exams.
- Alison Monahan: Right. And I think that's one of those areas where people sometimes just get frustrated and kind of tune out, like, "Why should I care if New York does it one way and California does it the other way? I'm just going to pick my favorite one." That is not a good idea. You want to understand both of them because these are the type of things that your professor may tease out and want you to discuss on an exam, and may give you facts that could implicate one or the other, or could go either way, or may not tell you which jurisdiction you're in or which rule they follow. So if you're in fictional jurisdiction A and the exam says they haven't decided which approach to take to this issue – well, that's cluing you in that you need to talk about both of them. And hopefully you paid attention.
- Lee Burgess: Exactly. And that kind of stuff can also come up on these types of questions called "policy questions", which they will sometimes make you argue which approach is better. You have to understand the two approaches, and oftentimes, one approach benefits one type of party over another type of party. And so you have to understand the ramifications of that and argue why one is better than the other. Yeah, professors love to test any sort of split.
- Alison Monahan: Yeah, because that's just creating ambiguity and that's what makes it interesting. If we could just go and look up the rule, which is what some people, I think, think they're doing when they read a case, is like, "I just need the rule" – well, if we could just go look it up, nobody's going to pay hundreds of dollars an hour for a lawyer to do that for them; they would just go look it up on the Internet.



- Lee Burgess: Right, yeah. You have to think about what your skill set is, and this legal analysis piece is the skill set that they're paying for in theory. So, that is what you want to focus on doing. The other thing that I think you want to keep an eye out for in cases is how different parties argue the law to match with their facts. Different professors will become more obsessed with this. I had a professor who was obsessed with this. But one of the things you're going to need to do on your exam is argue both sides, typically, of any legal issue. And cases, they do that for you. They will say, "Plaintiff's counsel argued X, Y, Z. Defendant's counsel argued A, B, C. And we think A, B, C is right because of E, F, G." That's in a very Cliff Notes version what the cases do to explain the legal analysis. You need to understand what parties have done to use this case law to their benefit.
- Alison Monahan: Right, and this will often come up in a class like Crim Law or something, where the prosecution would make this argument and the defense counsel might make this argument. So, you just need to be cognizant of all those arguments.
- Lee Burgess: Yeah, exactly. So, when you sit down to read, you always want to keep in mind this idea of, why is this case important? Why did the editors – or your professor, if they were at the casebook – include it in the casebook? What is it teaching you about the law that you don't already know? And if you can kind of ground yourself in those questions as you go into the case, and after you read the case, you are going to be doing really well when you walk into class, because you're going to have an understanding of what's going on. It doesn't mean that you have to have it all figured out. You can still have open questions, you can still be confused about what happened, but if you can just even understand how it fits into this larger puzzle, that's a huge step in the right direction.
- Alison Monahan: Right. And sometimes people suggest even before you sit down and do your reading, if it's an area you already know something about, you've been studying for a day or two, even maybe think, "Well, what questions do I still have about this topic? Maybe these cases will answer it." It's almost like you're on a scavenger hunt, like, "We didn't really talk about... It said it has to be objective, but what does that mean?" And maybe this new case is going to give you a gloss on that. That kind of thing can make you much more engaged in your reading.
- Lee Burgess: Yeah. Okay, so now, just play along with us. You're sitting down, you're cracking open your casebook, it's the first couple of weeks of class, and you're going to sit down to read a case. You have out your notebook or your pens or your highlighters, you're all prepared. You're going to start briefing, and you want to make sure you understand where you're going to find the rules, the black letter law in the case. Before we dive into what we actually want you to be looking for, I want to pause here and talk a little bit, a tiny bit, just a very tiny bit, about briefing. We have lots of content on this on our website and also other podcast episodes, but briefing is very important, because what we're talking about here, this exercise of really understanding what's in a case – this is the stuff that goes



in your brief, whether you're doing a book brief or a paper brief or a typed brief. So Alison, can you give us a quick primer on why we brief, or is there a perfect way to brief?

Alison Monahan: Well, I don't think there's one correct way to do it. I think there is a variety of ways; people should find the best balance of benefit to time for them. For me, that was book briefing. I'll admit, after they made us do one to practice, I don't think I ever did a written brief because I didn't find it was helpful enough for the time I was spending. The idea here is essentially it's notes on a case, and kind of helping you make sense of it. So, if you think about, "Okay, well, if I got called on in class, what is my professor likely to ask me about?" "Well, Miss Burgess, could you recite the facts of the case?" Okay, so in your brief, however you do it, you need something that is going to quickly let you see, as a reminder, if you read this three days ago, "Well, the facts of the case are X, Y, and Z." Okay, great. And then they're going to move into more questions about the specifics of an argument or whatever, so you kind of want to think about, what are the things you might be asked about? And then also think about these questions above of, "Why is this here? Why is it important? What am I taking away from it?" Because these are kind of your takeaways, basically, from the case, and they should be condensed. Briefs shouldn't be super long; it should literally be brief.

Lee Burgess: Right, and it should refresh your recollection. You should hopefully have retained some information while you were reading, and then it's going to refresh your recollection in class. I think that is one of the other things – when people start creating, especially if you're typing, a brief, really long briefs – that cannot be used to refresh your recollection; that's just reading something else. You want to have these so you can remember what you did before class.

Alison Monahan: Right. It might be bullet points, it might be a little picture, something that if you get, "Miss Burgess, could you please tell us the facts of this case? Case name." And you're flipping furiously through your notes, and you come across it and you're like, "Oh yes, right, this is the one about the guy who went to the hospital, and whatever."

Lee Burgess: Right, exactly. Okay, so now you're back to reading your case. You've got your briefing plan, you know how you're going to do it. So, you want to find the rule because that's what everybody's told you is important – this black letter law. Well, typically, they're not going to start with that.

Alison Monahan: Right, unfortunately for you.

Lee Burgess: It doesn't say, "The black letter law is:" That's not what they do.

Alison Monahan: "The rule is:"



- Lee Burgess: "The rule is:" It always starts with the facts. And I think one of the things that I found surprising was how long and detailed, even on an edited case, the facts can be.
- Alison Monahan: Yeah, it could be like a page or more.
- Lee Burgess: Yeah, it can be a lot of facts. It can be like, "So and so is tall, and had purple hair, and was walking their dog, and there were trees next to..." It could be incredibly detailed, and sometimes none of those facts are important. So, one of the things you want to look for is what facts are important. It's important to understand the story, because the facts are going to ground you in how the law will be applied, and the facts or why they're there, but you also are going to get some extra details. So you want to focus in on this idea that some facts are going to be legally significant and very important, and some aren't. But it's amazing, really, how many facts you'll get.
- Alison Monahan: I think part of it is, you have to keep in mind where these cases came from. They weren't written for law students; they were written for a case, and they were also written by judges. I mean, think of how many thwarted English professors ended up in law school. Some of those people probably became judges. Those people fancy this is their opportunity to write the great American novel, but in a case format. So, even if it's edited, you've still got to work with what you have. You can't make up stuff.
- Lee Burgess: It's so true.
- Alison Monahan: Some of them are very wordy.
- Lee Burgess: Yeah, and some of these stories are also pretty crazy. There can be a lot of really crazy details.
- Alison Monahan: Yeah, like stuff falling down... A lot of them are pretty entertaining, actually. I think they kind of fit in to telling the story.
- Lee Burgess: Yeah. The other thing to think about, I think, from some of these fact patterns is, you mentioned that a lot of these cases can be very long in real life and they have been edited down. But sometimes the facts haven't been completely edited down, so you might be wondering why does it matter that there were trees and there was purple hair, or whatever these detailed facts might be. They might actually be important for an issue that you're not even going to read about, so that's another reason why some of those details are in there, other than just people like to tell stories.
- Alison Monahan: Yeah, because sometimes you can't extract the most relevant facts from the facts as described without cutting out stuff that you don't want to cut out. So



sometimes you're just stuck with, "Oh well, the purple hair was actually related to a free speech issue that has nothing to do with what we're using this case for."

Lee Burgess: Right, exactly. But one of the things you want to think about is after they tell this sometimes long story about all of these different facts, there's typically going to be a new paragraph where they're then going to switch to talking about law. And this, I think, is just really important. Once you get used to looking for this key pivot moment, that's going to help you dial in to being ready to focus on what is the law that the court is going to apply. It's usually its own paragraph, sometimes it has a header, sometimes not, but there are usually signals like, "In California, a plaintiff may not recover for negligent infliction of emotional distress" or, "The modern defense of duress is..." They're really going to lay it out, they typically don't hide the ball. It's usually right there upfront.

Alison Monahan: And that's a point where if you're book briefing, you're going to switch from your green highlighter that you're highlighting the important facts with to your yellow, or whatever you use to highlight rules. So there should be that moment where you're like, "Alright, got the basic background, some of that may or may not have been relevant, can't really tell yet. Oh, now we're into the meat."

Lee Burgess: Yeah, this is the meat. So remember, the court is going to basically have to tell you what is the rule of law that they are planning to apply to those facts to come out with an outcome. If you've never read a case before, this is law that was used in a fictional case from the California performance test back in July 2008. But I just want to read this little paragraph of law so you can get a taste of what some of these paragraphs would sound like: "Under Columbia Law, punitive damages are recoverable for false imprisonment when the plaintiff proves by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice. Malice is defined as conduct which is intended by the defendant to cause injury to the plaintiff or despicable conduct, which is carried on by the defendant with a willful and conscious disregard of the rights or safety of others. Oppression is despicable conduct that subjects a person to cruel and unjust hardship and conscious disregard of that person's right. Fraud means an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury."

So, you can see that just in that paragraph, which would typically be in its own paragraph, or at the beginning of this section of the case where they're kind of reviewing the law – that is basically giving you all the law that the court is going to probably apply to the fact pattern. So that is the part you circle, you star, you highlight, you write it in your brief, whatever you're doing, because that is the black letter law.



Alison Monahan: Right. And this was a very straightforward example. It may not be quite this clear, but it often is this clear because they've got to tell you what the elements they're going to apply are. And I think if you're struggling still to find the law, you can look for things like numbered lists. Often the law is broken into elements, and that's a really good signal that this is the rule. And like you said, they can't really hide the ball because they've got to use something as a rule.

Lee Burgess: Right. And usually those rules come from old cases.

Alison Monahan: Right. This is kind of the common law system. It's like, we've got to find a rule from some place.

Lee Burgess: Right. So there's got to be a rule, there'll typically be a citation to another case. You don't need to go read that other case, but it is important to understand that in a common law system, they're going to cite back to a rule. Or if you're taking a statutory class, let's say – everyone knows my least favorite class, Civil Procedure – you might have a reference to a code, a civil procedure code. But then you might also have a reference to cases that have interpreted that code, because that's how this works. But regardless, they're going to write down and have to say, "This is what we think the law is, and this is what we're going to apply in our opinion."

Alison Monahan: Right. And they'll often say something along the lines of, "As discussed in case name, blah, blah, blah, malice is da, da da." To make it clear, "We're not just making this up, we got it from some place." So you want to look, as you said, for those signals, because that's really cluing you in to, "Alright, this is the rule." And there may be some ambiguity. As we said earlier, they may be discussing different approaches to the rule, but they have to tell you what they're talking about at some point.

Lee Burgess: Yep, exactly. So, you might be scratching your head and saying, "Okay, well, how do I know when they're done presenting the law?" Well, there's going to be a shift in the opinion from where they talk about the law and they're going to shift to applying it to the facts. And sometimes courts are even going to give you a nice signal that says, "In this case, plaintiff argued, da, da, da." Again, not hiding the ball. And we encourage our students to do this in their own exam writing, to give these signals, so it can be very easy to highlight when you're switching to legal analysis for your professors. Well, judges do that too. They all went to law school.

Alison Monahan: Shockingly enough.

Lee Burgess: I know. This is how you and their clerks write, and this is what you do in practice. So, you can look for those signals to see where there's been a shift.



And then they're shifting to arguments or analysis outside of just statements of what is the law.

Alison Monahan: Yeah, I think people really underestimate the importance of these signals and these transitions, because that's kind of easy to gloss over when you're looking for the rule. But if I'm saying as a judge or as a law clerk... I was a law clerk, I wrote opinions that the judge would use to base his opinions on. And we're trying to make it clear – it's like, "Well, in this other case, they said that this was the rule and we agree with that, or don't agree with that, and here's why. And in this case, we have these facts and our facts are not exactly like those. We can differentiate on the blah, blah, blah, but whatever." So it's not just like, "Oh, look it up." They're telling you where you are in this process, basically.

Lee Burgess: Yeah, it's very true. And what I think I didn't fully appreciate when I was a younger law student or a beginning law student, was that when they start talking about facts and applying those facts to law, what they're telling you are the legally significant facts, which I feel like is often left out of early law school discussions. We were talking about, is purple hair legally significant? Well, the way you would know is if they talked about the purple hair. If the court talks about the purple hair, then that is a legally significant fact. And so, if you have an exam question where somebody has orange hair instead of purple hair...

Alison Monahan: Or a mohawk.

Lee Burgess: Or a mohawk, or braids, or this or that – it's like, "Well, I remember that case where purple hair was important. Does the person in my fact pattern's hair, is that important? Is that legally significant here?" And the way you understand that is by seeing what the court's doing with those facts. It is important to know which facts change the outcome, and that's how your professors are going to create these fact patterns to trigger legal issues and give you stuff to argue about. So, all those facts are going to be legally significant. You have to practice understanding how facts are legally significant in a case.

Alison Monahan: Right, this is where you can kind of play with it. The example we're giving might sound trivial, about purple hair, but you can start thinking of situations where maybe this was a workplace issue or a school issue and something happened, this person was punished for having purple hair. Okay, fine.

Lee Burgess: Right, a dress code issue. Yeah.

Alison Monahan: And so they resolve this however it's resolved, and then in our next hypo that you can think of, your professor might give you in class or might give you on an exam, someone was punished for something similar, like having a nose ring. How is that similar? How is it different? These are the kinds of things you want to be thinking about, so that you can be thinking about how you're going to use



the rule because the rules are never just that clear cut. I mean, it might be a rule we can say, but there's always going to be some way to argue. This is what lawyers do – we argue things.

Lee Burgess: Right, even in the classes that sounds like they have clear cut rules. It's like, I can tell you what the rule for murder is, but it's more difficult than you would think to decide if something is murder.

Alison Monahan: And also you have to be thinking, are you talking about the model penal code rule or are you talking about the common law rule? What state are we in, what jurisdiction?

Lee Burgess: Exactly.

Alison Monahan: You might think something like – you mentioned civil procedure earlier – is more straightforward because there we have something called the Federal Rules of Civil Procedure, we also have the Federal Rules of Evidence. You might think you could just go look up the answer in those books. Wouldn't that be nice? You can probably quickly deduce that if we could just go look it up, we probably wouldn't have an entire class on it. So, even in those statutory-based classes, there's still room for tons of ambiguity.

Lee Burgess: Yeah, exactly. And so, as you get better and better at reading cases, these facts will really pop out to you as you read the analysis piece. And I think that's why if you do have a casebook with very lengthy fact patterns, that is the part that you can probably read a little faster to kind of ground yourself in the story. But the really important facts are going to be discussed later. And there are going to be the facts that maybe make it into your brief or make it into the margins of like, "Well, it was very important that there was purple hair. It was very important... These are the things that I need to make sure if I get called on in class that I mention happened in the case."

Alison Monahan: Right. It might be it was important that there was purple hair because of what signal that was seen to be sending in this community or whatever.

Lee Burgess: Right.

Alison Monahan: But you're right, there's kind of background facts. Maybe it doesn't matter what year in high school the student was, for example, but they tell you, "Blah-di-blah person was a sophomore in high school, 16 years old, when she went to school with purple hair." You can't tell yet whether it matters that she's 16, that it matters she was in high school, that it matters it was a school or it matters what color her hair is. But like you said, later, you do know that. It doesn't matter if she was 16 and not 18, that's not important.



- Lee Burgess: Right, exactly. So, once you really get into this meat, that's the part where the court is going to discuss its reasoning. It's going to present the arguments by both sides, and it's going to basically come into a conclusion at the end, which is kind of called the "holding", which is what did they decide? Who wins?
- Alison Monahan: In that case, it might be something like, "Well, the student was suspended and this was on her permanent record. We have decided that she was suspended unconstitutionally and we are going to clear her permanent record." Again, that's not really that relevant to you. It's just kind of like, "Okay, great. That's how it came out, that's what happened in this case." But that doesn't really roll over into a new set of circumstances.
- Lee Burgess: No. And I think when you start reading cases, I think there is this assumption that the decision of the court is the most important piece.
- Alison Monahan: Right.
- Lee Burgess: But oftentimes, that is not why they are included in the casebook. It's often for this meaty part that leads to that decision. It's like, how did they get to that decision, is often more important than the actual outcome.
- Alison Monahan: Yeah. So I think sometimes people confuse the black letter rules and the holding, and I think it's useful to clarify in your head which one of those is which. Your professor might ask you in class, "And what's the holding of this case? Who won?" And you want to be able to tell them. But ultimately, that's not the most important stuff here.
- Lee Burgess: Yeah, because sometimes, although in a common law class, cases have made the law, oftentimes, you're not reading the cases that made the law. They're just going to tell you the law in that, but you oftentimes don't read that case. They're going to tell you the law, and then the cases you're reading are doing these nuances that are applying the law. And so, the outcome of the case is not always the black letter law.
- Alison Monahan: Yeah. Sometimes they won't even edit that part out, not usually. But there are cases, I'm like, "I wonder who won?" And you're like, "Not in there."
- Lee Burgess: Exactly, that's how unimportant it is.
- Alison Monahan: It's really trivial what happened in terms of this particular person. No one cares, it was 20 years ago.
- Lee Burgess: Especially because when you have these complicated cases with multiple issues, the outcome of the case could be that it was overturned on some procedural



thing that's totally different. But there is still meat that makes the case worth reading.

Alison Monahan: Definitely.

Lee Burgess: So, what I think is just so important at the end, when you get to the end, is to just go back again to those original questions. Why is the case important? What is it teaching me that other stuff that I've read in this casebook hasn't taught me? Why am I spending my time doing this? And I think if you can just make that part of your habit, it's not like it's going to take any longer than reading it the first time. But you're really likely to retain so much more because you're going to understand how it fits into this kind of larger structure of how they're trying to teach you the law.

Alison Monahan: Right. I think if anything, it's going to make it faster for you because once you've identified these key things, then your brief can be really short. And so, that is going to save you a lot of time because you're not writing down a bunch of crap that isn't actually helping you get to the point.

Lee Burgess: Yep. So we mentioned when you're reading cases to prepare for class, you're on this hunting expedition. You're hunting for all these signals.

Alison Monahan: Like a truffle hunter.

Lee Burgess: Yeah, exactly. So, most modern case law is pretty easy to read. They don't use the weird cryptic old school language.

Alison Monahan: I just want to say one thing on that point. Sometimes, particularly 1Ls love to do everything in their legal Latin. I don't think that's a great idea. Just because you read something and you looked it up, and then you remembered it at the time, you don't necessarily just want to dump that into your brief, because probably you're going to forget what it means. And also, you need to know what these things mean, and it's also just frankly kind of annoying to me as a law student when people would throw out all this legal law. I'm like, "Could you just say what you mean?" Because I think you really want to be sure you understand it, not just that you think you sound smart or important because you're using Latin terms.

Lee Burgess: Right. There are Latin terms that are parts of legal rules, and those are very important to know, but random Latin language, not really.

Alison Monahan: I just don't find it helpful for most people, to be honest. And even it will annoy some professors, because they would think you're trying to show off.



- Lee Burgess: Yeah, yeah, totally true. So instead, focus on how the more modern cases present the law, they're usually pretty easy to read, they're usually not stuffed full of Latin words that you have to look up every other word. The organization is pretty standardized, that we've kind of discussed. And then you can use your briefs, whether you've written them out or done a book brief, to just help you keep an eye out for each part of the case, so you can understand when you finish a case why it is important. And if you don't understand that, make sure you understand it by the end of class, or go talk to your professor, because if you don't understand it at the end of class, then you missed something.
- Alison Monahan: Right. And if you're doing a book brief, you'll start to pretty rapidly see the pattern of your colors should be pretty consistent throughout cases. So if you find that you're randomly highlighting weird things in different places, that should be a sign to you of like, "It this really what I think it is, because this is not the part of the case where they should be talking about this?"
- Lee Burgess: Yeah, exactly. And one of your jobs is to get better and better at this, so you can do it faster and faster. In the beginning, you're going to be slower, but you're learning a skill, so it should get easier the longer you do it.
- Alison Monahan: Yeah, and you'll get better at it because you will have made mistakes and learned from those mistakes and moved on. We talk a lot about the [growth mindset](#), but this is another opportunity to practice that, of course, you're not always going to get it totally right, but that's okay; you just want to be getting better.
- Lee Burgess: Exactly. Well, I was actually surprised at how much I had to say about how to read a case when we sat down to answer this question. I hope people found it helpful. But I do think it is a bit of an art to efficiently read a case.
- Alison Monahan: Oh, for sure.
- Lee Burgess: So I think it's a good thing to think about, about how to really have your plan in place of how you're going to find the important stuff.
- Alison Monahan: Yeah, and this is one of the things I think that differentiates good lawyers from other lawyers, is that they can go through cases really quickly, even when they're unedited because they know what they're looking for, they know where things are likely to be. Because you may be having to plow through 10 cases to find one that's most on-point, so you need to be able to do that pretty fast.
- Lee Burgess: Yeah, that is very true. So, practice, practice, and you'll be one of those lawyers who gets rewarded for working quickly and efficiently.
- Alison Monahan: Exactly. Research; that's what we do.



Lee Burgess: Yep.

Alison Monahan: That's the reality. And you can apply it to lots of stuff, so other areas too. I have friends who basically ask me questions so I can do Google research for them, because I get there way faster.

Lee Burgess: That's true. Yeah, it's true. Alright, well, with that, we are out of time. I hope you guys have found this helpful to dive into all of your new cases for your 1L year. If you enjoyed this episode of the Law School Toolbox podcast, please take a second to leave a review and rating on your favorite listening app. We'd really appreciate it. And be sure to subscribe so you don't miss anything. 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 website [contact form](#) at LawSchoolToolbox.com. Thanks for listening, and we'll talk soon!

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