



Lee Burgess: Welcome back to the Law School Toolbox podcast. Today, we're excited to share the fourth episode of our new "Start Law School Right" series. In this episode, we will be discussing making the most out of your class time. 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.

Lee Burgess: Welcome back! Now that you know how to survive the Socratic method, let's discuss a very important question: What exactly are you supposed to pay attention to in class?

Lee Burgess: First, what law school isn't about. Perhaps you came to law school thinking you'd memorize various rules, which you'd ultimately apply to your clients' problems. Reasonable enough assumption! It seems pretty simple being a lawyer. A client walks in, tells you that his business partner cheated him, and you say, "Okay, no problem, we'll get your money back." Unfortunately, it rarely works like that. If it were really that easy, there would be no need to pay for a lawyer.

Lee Burgess: So, you're going to need to get used to the endless hypos. In the real world, the questions are rarely that cut-and-dried, so it's likely that your class discussion will involve lots of ambiguous hypotheticals, to get you ready for real-world lawyering. Although it's tempting to dismiss these crazy hypos as a waste of time, you can't just zone out and wait for the answer. Your professor is discussing this stuff for a reason, and that reason isn't just to torment you!

Lee Burgess: So, what not to do? Students tend to deal with the endless law school hypos in one of two ways:

1. They wait impatiently for "the rule" and consider the rest of class a total waste of time, or
2. They assume everything is arguable and don't bother learning any of the rules.

Lee Burgess: Both of these positions are misguided! You need to know the basic legal rules – the "black letter law" – as a starting point, but you also have to understand the disputed grey areas to do well on your exams. So, let's think about this for a moment. The professor is making up the hypo during class. That same professor



is going to be writing your exam. Do you think you should pay attention to the hypos to learn how your professor will write exam fact patterns? You bet!

- Lee Burgess: So, what should you pay close attention to in class? Two things, primarily:
1. Any instances of black letter law. If the case, or your professor, says something along the lines of, "As we see, the elements of negligence are X, Y, and Z", you want to write that down, with a big "Important" note beside of it.
 2. Any "grey area" examples that tell you how the black letter law is applied. If the case is about a car running on the sidewalk and hitting a pedestrian, but your professor spends a lot of class time discussing whether a bicyclist who did the same thing would be liable, write down the reasoning. That's precisely the sort of thing that could show up on an exam.

Lee Burgess: Next, we'll talk in more detail about the different types of grey areas, since they're where lots of your exam points will be found, and it's important to understand what you're looking for. After that, we'll dive into the nitty-gritty of class notes, with some examples. As we discussed, "the law" is rarely cut-and-dried, so it's important to get comfortable with the grey areas as rapidly as you can. Learning to deal with complications and uncertainty is a key component of being an excellent law student. But to get used to ambiguity, it's helpful to know what you're looking for. Not all ambiguity is the same.

Lee Burgess: In a nutshell, there are two primary sources of ambiguity: ambiguity in the facts (Did the parties come to an agreement or not?), and ambiguity in the law (Does legal theory A apply or legal theory B?) Learning to recognize these and deal with them proficiently, is the key to doing well on law school exams.

Lee Burgess: Here's what each one refers to. Ambiguity in the facts occurs when it's unclear, for example, if there was consideration. You'll discuss consideration in great detail in Contracts, because it is a key component of contract formation. Basically, it's something of value given by both parties that induces them to enter into the agreement. An example of factual ambiguity in this context would be a dispute over what exactly each party agreed to when the contract was arguably formed, and if it was valid consideration for a contract. Everyone agrees what "the rules" require for there to be consideration, but you could argue different outcomes, depending on how you interpret the facts.

Lee Burgess: Ambiguity in the law occurs when a contract case would come out one way under the mailbox rule. Under the mailbox rule, an offer is considered accepted when the acceptance is mailed, not when it's received. The restatement changes this approach somewhat, so the parties might agree on the sequence of events, but argue over which law should apply to this factual situation and a



different way under the more modern restatement rule. Here, the sequence of events is undisputed, but the outcome depends on which legal rule applies.

Lee Burgess: If you pay attention, you'll notice your professor teasing out both of these types of ambiguity. Is it worth paying attention to? Absolutely! Ambiguity is what law school exams are all about, as we'll discuss in detail later.

Lee Burgess: And, just to make things even more fun and exciting, you'll often encounter situations where both types of ambiguity are tied up together. So, for example, depending on how you interpret certain facts, different legal rules might arguably apply, leading to different outcomes. It's enough to make your head spin, but stay calm! A step-by-step approach – asking simple questions that you've figured out in advance – will take you a long way. We'll show you how!

Lee Burgess: After our discussion of ambiguity, you might be wondering what exactly you need to write down in your class notes. Well, that's an excellent question! When you're thinking about how to structure your class notes, write down the basic black letter law, but also intentionally make room for ambiguity. Don't overlook the easy stuff. If your professor announces a rule of law ("The elements of first-degree murder are X, Y, and Z"), write this down. If your professor is discussing a case, and the court spends a lot of time on a question that could go either way, don't just wait for the answer! Think about why the outcome is ambiguous, and why it's a close case. Is it a factual issue? Is it a dispute over what law applies? Write down the basic outlines of the dispute, and include the court's reasoning for choosing one result over the other. If your professor is droning on about a close question of statutory interpretation, or a situation where the traditional and modern rules would give different results, this isn't the time to zone out and check your email! Chances are good a similar question could appear on your exam. Make a note of both sides of the argument. Once you start noticing ambiguity, you'll see it everywhere – a habit that your non-law school friends and loved ones might not totally appreciate, sadly. Just remember: Training yourself to pay attention to the grey areas in the class discussion is critically important to succeeding on law school exams. Ignore the ambiguity at your peril. It's likely to show up again on exams.

Lee Burgess: Now, some practical tips for taking useful class notes. Most law students type their class notes, which is fine if you pay attention and think about what you write down (versus just transcribing like a court reporter). However, lots of studies suggest that handwriting your notes leads to better comprehension and retention, and we'll encourage you to at least give it a shot.

Lee Burgess: Whatever you decide, keep in mind these factors: Make sure that your notes are organized. There is no one right way to organize your class notes. We know



that many students have different class note templates that work for them. The key is that you want your notes to be consistent throughout a given class, so they are easy to reference and study from. And you want to be sure you're drawing out the most important information, not just transcribing everything that's said. Have a plan for what to write down, and evaluate regularly if it's working for you.

Lee Burgess: Don't feel like notes for each class have to be exactly the same. Perhaps your Criminal Law professor has a totally different teaching style than your Civil Procedure professor. Should you feel free to have a different note-taking template for each class? Yes! Focus on what each professor thinks is important.

Lee Burgess: Some effective note-taking techniques we've seen are:

1. Using one notebook per class, or one document if it is electronic. We've both been pretty obsessed with the [Circa notebooks](#), because you can easily reorganize them and they're already set up for note-taking.
2. Taking notes on the case brief itself. Make sure that you leave enough room on the page or pages if you are going to do that.
3. Having different sections of your page for different types of material. Search for "Cornell note-taking method" for examples. Check out [this blog post](#) linked to in the show notes.

Lee Burgess: So, what are you listening for? Let's take a moment to talk about what you are looking for during the Socratic dialogue. These are the things you want to be keeping an ear out for: general definitions, black letter law, applications of the black letter law to facts, why a given case was important and therefore in the casebook, attack plans, and hypos. If your professor makes a pronouncement about a topic, make a note of it with a "Professor says" flag. For example, "This is a close question, but I think the dissenters have the better part of the argument, for these reasons."

Lee Burgess: Like most things, it is about finding a strategy that works for you. But it's also about acknowledging when your initial plan isn't working and trying something new. Your job is to take the best notes for you, and it may take some time to find your ideal style. Oh, and one final note: If the professor writes it on the board, typically you should write it down too.

Lee Burgess: Now I want to share a few of my lessons learned from when I was in law school. So, when I was in law school, I took notes on the computer. My first year of law school our school didn't have wireless (I know, I am dating myself), so it was very easy to unplug and just take notes in class without computer distractions. Looking back now, what do I think of those notes? Well, they were too long. I was doing my best to transcribe everything that was going on in class. I was



trying to be a court reporter and not a law student. A law student's job is not to transcribe the class; it is to be engaged and learn from the class.

Lee Burgess: So, what would I do if I could take my first year over again? I would probably handwrite my notes. I would leave the computer in my bag and force myself to be smarter about what I was writing down. I would spend more time in class thinking about what was going on instead of just typing it out. And I bet I would have gotten more from class, and my notes would have been shorter and easier to review. And outlining therefore would have been easier. Oh well, lesson learned.

Lee Burgess: Next up, Alison's going to share a few of her lessons learned from when she was in law school.

Alison Monahan: Hi, it's Alison. I pretty much agree. I typed my class notes, because everyone else did, and I don't think they were particularly helpful a lot of the time. I probably would have been better off handwriting, as one of my roommates eventually started doing, and it helped her a lot. Particularly because I'm a more visual learner, handwriting probably would have been better for me. In retrospect, I spent a lot of time being distracted by my laptop, rather than paying attention. And my notes were largely unstructured, so they weren't that helpful when I reviewed them later. Oh well, we survived, and you will too. As we said, don't be afraid to experiment with different techniques until you find what works for you in this particular class.

Lee Burgess: Having a basic template to use for every case discussion ensures you don't miss important things that the professor raises. Throughout, ask yourself three questions:
What's the black letter, or settled, law?
Where are the disputed grey areas?
Why did the case come out the way it did?

Lee Burgess: If you can answer these for every case your professor discusses, you know your notes are capturing the information you need to do well on the exam.

Lee Burgess: Class notes, as we have discussed, are very important. Hopefully now you have a better understanding of what should go in your notes. But these notes are for you. So take a moment and think about how you are going to put together your class notes. Here are some questions to consider:

1. Are you going to write your notes by hand or type them on the computer?
2. If you're handwriting, what kind of notebook are you going to use? Or you could even check out the new Kindle Scribe.
3. If you're typing, how are you going to structure your files?



4. Are you going to break your notes into sections?
5. What sections are you going to include?
6. How will you differentiate each section?
7. If you've started class already, what's not working now? How will you improve things going forward?
8. Last but not least, how are you going to back up your notes, so you don't accidentally lose them? Be sure you have a plan for this, even if you're handwriting.

Lee Burgess: Before we move on, let's talk about a dirty little secret: Law school classes aren't always that exciting. You'll probably see many of your classmates half-listening, while they play online or look at social media. You know, of course, that paying attention in class is critical. But how can you stay engaged when class is boring? Here are a few tips:

Lee Burgess: 1. After you've read the assigned cases, jot down a few questions that you want answered. You can do this as part of your case brief. You'll be more engaged in class if you're looking for the answers. And, if you don't get answers, that's a great reason to go to office hours or email your professor with a question.

Lee Burgess: 2. Have a plan for what you're going to write down. It goes without saying that you should be taking notes in class. But what kind of notes? Transcribing every word isn't helpful. If you're stuck in class for an hour or so anyway, try to use the time productively. Black letter law? Make a note. Important disputed issue? Write it down. Having a way to structure these different topics in your notes will make life a lot easier later on.

Lee Burgess: 3. Play along in your head. If you're not the one on the spot, it's easy to zone out and get distracted. But the entire point of the Socratic method is that the studio audience – everyone not on call – plays along silently. If you try to answer the questions your professor is asking, you'll be more interested in the material, and critically, you'll know when you don't understand something. If you just passively listen while the person on call answers, you're not testing your understanding. That can cause problems later!

Lee Burgess: 4. Pay attention to where you sit. If you're forced to select a seat on the first day, choose wisely. If you sit where you're easily seen by the professor, you're a lot more likely to pay attention.

Lee Burgess: 5. Get off the Internet and your phone. Yes, it's tempting to check your email, or get on a Slack channel, or to start shopping for paper towels on Amazon. But no one can truly multitask. If you're trying to do something on your computer while half-listening to the class discussion, you're missing out on important



information. Law school is graded on a curve. If you're not paying attention, someone else is! And don't get us started on games. There's good evidence that performing a visually-demanding task actually turns off your hearing. We're not making this up!

Lee Burgess: 6. Look like you're paying attention. Even if you feel bored, try to look like you're paying attention. Sit up straight, lean forward in your chair, make eye contact with the professor. This serves two purposes. One, if you behave as if you're paying attention, you'll be more alert and it will be easier to actually pay attention. Two, if your professor thinks you're paying attention, she's going to like you better. Teaching is difficult, especially when you're looking out at a room of bored students playing Solitaire. Having an engaged student is a lifeline – one that will be remembered when it comes time to award points for class participation. Note that we're not arguing you should be an obnoxious gunner; just an alert presence in the sea of slack-eyed zombies.

Lee Burgess: So, the next time you're starting to zone out in class, try one of these techniques and see if class becomes more engaging. If not, there's always the "more coffee" option!

Lee Burgess: Many law students feel like there's more work than can possibly be done in a given semester between reading, meetings, class, writing assignments – you name it. So, what's the first thing to go when they start cutting tasks? Time devoted to reviewing the material from class to make sure they understand it. And this is a serious mistake. Why should you review your notes within a few days of class?

1. Your notes will be fresh in your mind. If you leave the notes for weeks and come back to them, it is possible you won't even remember what some of the notes mean. And as we talked about previously, what happens in class is really important.
2. You will remember the cases you read, and can easily refer back to them if necessary.
3. Typically material builds on what you learned before. You don't want to be left in the dark about a legal theory or a rule that gets applied throughout the semester. Better to clear up any confusion early on.

Lee Burgess: Aim to carve out some time, at least once a week, to review what happened in each subject that week. This solidifies your understanding and gives you a chance to identify weak areas, so you can generate questions to take to the professor, a teaching assistant, your study group, or even a law school tutor.

Lee Burgess: And with that, we're out of time. If you're starting law school soon and want some personalized help to feel confident on day one, check out



StartLawSchoolRight.com for details of our “Start Law School Right” course. 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 or 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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