Episode 68: Top 10 Legal Research and Writing Disasters to Avoid

Lee Burgess: Welcome to the Law School Toolbox podcast. Today we're discussing the top 10 legal research and writing disasters so you can avoid them. 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 and rating on iTunes. 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. We would like to thank Thomson Reuters for sponsoring this episode of the Law School Toolbox Podcast. You likely interact with their products every day using Weslaw, TWEN, and practical Law. Thomson Reuters brings you tools and insights to help you be your best now and when you go pro as a practicing attorney. You can visit them at Lawschool.weslaw.com.

Alison Monahan: Welcome back to the Law School Toolbox podcast. Today we're talking about how to avoid our top 10 legal research and writing disasters.

So let's get started. I mean, Lee, almost everyone out in the country is going to take some sort of legal research and writing class, right?

Lee Burgess: Yes, I'd be shocked if you didn't take some sort of legal research and writing in your first year. And most programs will require you to complete at least one if not two paper assignments.

And some of these assignments are closed research assignments and some are open. And what we mean by a closed assignment is that they give you kind of a packet of typically cases and statutes, and you have to use those cases and statutes to do your assignment. But then an Open Universe assignment means that you're going to be able to use the entirety of the lease legal research and writing universe to find the answer to the question and draft your assignment.

So they're, they're different, but the mistakes that can happen and the disasters that can happen happen in both of them.

Alison Monahan: Yeah, and the closed universe is kind of almost like a warm up assignment. So it simplifies matters because instead of having to go out and find the cases or find the statutes, your legal writing professor has put those together for you.

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So it gives you this universe of materials to work with. That being said, there's still plenty of places that can go wrong.

Lee Burgess: Oh yes, I mean, it can still be quite ugly even though the answer is technically in front of you.

Alison Monahan: Yeah, and then it gets even harder when you have to actually go and find the research yourself because that adds a whole other level of complexity beyond just like, not knowing how to write or whatever, that like, you know, maybe you don't find the right cases or how do you know when you're finished, all these type of things. So, let's get into it. Well, I mean, we both went to law school, obviously. We have had a lot of students that we have supported over the years.

We have heard a lot of different stories that run the gamut about legal research and writing disasters. So let's run through the most common ones so that people hopefully can take notes and avoid at least some of these because it's really disheartening when, you know, you put a lot of time and energy into an assignment and disaster strikes.

Lee Burgess: Yeah. So let's start with number one. This one is maybe the most, the easiest one to avoid.

Alison Monahan: But so common.

Lee Burgess: So common, but just so easy.

Alison Monahan: Unbelievable. It's really unbelievable.

Lee Burgess: If your computer crashes and you lose all your work because you were only saving your work onto your computer hard drive. Oh my gosh, please don't do this.

Alison Monahan: Do not, do not, do not do this.

Think redundancy.

Lee Burgess: Yes.

Alison Monahan: Think like an IT person.

Lee Burgess: Exactly.

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Alison Monahan: You think, I mean, any number of disasters can strike at any moment in the world, like, you know, we're in California. We could have an earthquake right this second. If we had an earthquake, and God forbid, my laptop got smashed and broken, and I would be upset, but our business would still run.

Because I'm not just storing my documents that are critical to my life on that computer. If you store everything on one computer, you have a single point of failure. That is not a good thing to have. Things happen. Hard drives melt, things get stolen or broken, you know, you might just accidentally overwrite something.

Like, you cannot have one copy of this important work. I mean, I would go so far as to say, I was a programmer, so I've actually given some thought to these sort of things. You know, I would go so far as to say, I mean, step one, if you're listening to this, is absolutely, definitely back things up in the cloud.

So, you know, I mean, people worry about security or whatever, but, you know, the reality is it's far more secure on Dropbox, probably, than on your local computer or on your university server. And you need to automate this so that you don't have to think about it. So with something like Dropbox, the advantage is you can just have literally a folder called Dropbox on your computer and you just put everything in there and it backs up automatically.

Lee Burgess: Yeah, it's beautiful.

Alison Monahan: It's kind of amazing. And then you can access it from your phone. You can access it from a different computer. You can access it from the web. Everything is just there. So that's kind of like your first line of defense is you have to be backing up automatically somewhere. You can also back up to, like, an external hard drive, for example, but you want to make sure it's doing that automatically.

I think I, being paranoid, have stuff in the cloud. I also have an external hard drive, but I think I got a notice the other day. It had been, like, 75 days since I backed up to it, and I think it might actually be in a different country right now. So, point being, if that was my only backup source, I would be in serious trouble.

As a secondary backup, fine, whatever. The other thing I think you really need to think about with legal writing is doing some sort of manual versioning of things. And so it might be, if it's, you know, a graded assignment, every night, for example, you might make a new copy and save the old copy with a date on it.

And what that lets you do is, sometimes things happen, like say your file gets corrupted.

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Lee Burgess: Especially in Word, like formatting things happens.

Alison Monahan: These are like big assignments, they're usually like a lot of formatting. Like they're kind of heavy, you know, like stuff is going to happen, like macros or whatever.

But having that versioning means like absolute worst case scenario, if that version is backed up in the cloud, the most you're ever going to lose is one day Word. I mean, that would be bad, but that's not catastrophic. You know, and you might even save when you think you have a final version, before you go back and do your last edits, you save that final version as FinalVersionDate.

So that then, if God forbid, something happens, you have that version. But you just have to think through this.

Lee Burgess: Yeah, and guys, it's not that hard. I mean, Alison and I, to date ourselves, we were back in the day where, in college, we would be carrying floppy disks.

Alison Monahan: Oh yeah.

Lee Burgess: And you'd have multiple floppy disks.

Alison Monahan: Yeah, because if you put it near a magnet, there goes all of your work.

Lee Burgess: Right, exactly. I had my thesis on multiple floppy disks, and on a school server and, you know, at that point, emails, but emailing large files was not even as easy.

Alison Monahan: I mean, you can email it to yourself. I mean here you can put it, you know, you can put stuff on a USB.

Point is just have something that's automated and then have something that you're doing that you're actually thinking about and you'll be fine. You'll never have a major problem with this, but if you do not do this, you are absolutely tempting fate. And it will come back to bite you.

Lee Burgess: Yeah. Because we've had it happen to people.

Like computers melt down, they miss deadlines for things. And you know what? Your school doesn't wanna hear your sob story about your hard drive melting down.

Alison Monahan: No. No one cares.

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Lee Burgess: Nobody cares.

Alison Monahan: They're gonna be like, you're perform, you're like auditioning to be a lawyer. Right. Are you really gonna go tell your client that they're gonna sit on death row because your computer melted down?

Yeah. No. That is not acceptable. You're failing class.

Lee Burgess: Yep. Linked to this is something that actually happened to a friend of mine in law school, which is number two, which is. Your laptop might get stolen while you're working on your legal research writing assignment, and actually her laptop got stolen from the library.

Somebody just walked out with it while she was in the bathroom. She came back and her laptop was gone.

Alison Monahan: Oh yeah, a friend of mine had his laptop in his car last week in a parking lot. at like a big box store in Emeryville for 10 minutes, he comes back out, two windows have been broken, and his laptop is gone.

Lee Burgess: Yeah, happens really easily.

Alison Monahan: Yeah, he was a web developer, he's like, well, everything was backed up, so I can still work, but it sucks that I lost my laptop.

Lee Burgess:. Exactly, so again, this is why you have to have things backed up in multiple places, because when my friend, who didn't have things backed up in multiple places, went to the registrar, I think, or the dean's office, and said, my laptop I need an extension on this week long writing assignment, and they said no.

Alison Monahan: Yeah. I mean, the other thing you can do if you're really paranoid is actually print stuff regularly.

Lee Burgess: Yeah.

Alison Monahan: You know, no one ever prints anything, but at least if it's printed, like worst case scenario, you can retype it.

Lee Burgess: Exactly. Exactly. And as you get closer to the deadline, I do actually think printing out copies, like, you know, maybe you're gonna do another final proof the morning after that it's due, but printing out a clean one that could be ready to go the night before, I think, is wise, because again, stuff happens.

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Alison Monahan: Oh my gosh, I remember my moot court partner, the night before our assignment was due, at like literally four in the morning or something, he did a find and replace, and somehow, like, screwed up something massive. I can't remember what it was, but it was like unbelievably stupid. And I'm just like, are you kidding me?

And he had to go through manually like one by one by one to correct this thing. It was just like absolutely unbelievable.

Lee Burgess: Yeah, so,

Alison Monahan: He would have been better off just turning in the prior copy.

Lee Burgess: Yeah, so basically, make sure your technology is in line, make sure you have backups of things, and make sure that-

Alison Monahan: Be careful doing replace all.

Lee Burgess: Be careful doing replace all, be careful leaving your laptop in your car, I mean, come on guys, like, I know laptops are kind of heavy, but it's called a laptop backpack, and just like, take it to the gym, take it wherever you need to go, it's going to be safe.

Alison Monahan: Yeah, I think you should have to think about it.

You know, it's like, even is your gym locker safe? Like, if somebody sees you, like, with a bunch of stuff, and then you put it in the locker, and you have a crappy lock, eh, it wouldn't be that surprised if that walked off at some point.

Lee Burgess: Yeah,

Alison Monahan: Things happen.

Lee Burgess: Things happen. Alright number three is something we also see happen a lot, is you spend too much time researching, or if it's a closed universe assignment, just reading the cases.

Alison Monahan: Like, stewing over it.

Lee Burgess: Stewing over it. And I think You know, you probably know at this point if you're a 1L what your legal research and writing kind of final exam type assignments look like, but you usually have a timeline. Maybe it's a week, maybe it's five days, or

some schools it's pretty extreme it's over a weekend, but you have to keep in perspective how much time you have because, you know, if you spend all this time researching and find the perfect quote from the perfect case but don't have time to actually write your assignment, it's probably not going to get an A in the class.

Alison Monahan: Well, and the other, I mean, the sort of corollary of this too is particularly if your legal research and writing class is ungraded, you have to be judicious about the amount of time you're spending on this.

Lee Burgess: That's a very good point.

Alison Monahan: You know, you cannot spend every waking moment for two weeks working on an ungraded memo for legal writing and mean, you know, if that means that you're not doing the reading for your classes, you're not going to class, whatever it is, you know, you've got to keep this in perspective.

Lee Burgess: Yes. So I would really recommend that you think about you know, what your schedule for this assignment is going to be when you get the assignment or you learn enough about the assignment. So if it's five days, you need to put off cutoff points of when you're going to finish your research and make that final decision about what's going to be in your assignment.

When are you going to outline? How long are you going to spend organizing and outlining? Set a cutoff date for that. When are you going to write? Set a cutoff time for that. Because. You know, a little organization can keep yourself from, you know, negotiating yourself out of time to actually do the assignment.

Because if you don't set these guidelines, then it can be like, well, I just need another half of a morning to research, you know? And sure, it can be stressful to figure out when you're done, and it can be stressful to stop researching, but you know, that's a skill. You have to do it in your job too, because let me tell you, no client's gonna pay for you to research for days and days and days and days and days on end.

Alison Monahan: And never write anything.

Lee Burgess: And never write anything .

Alison Monahan: No, I mean, I think, yeah, you've got to, you know, you've got to sort of map this out and be realistic, also keeping in mind things are probably going to take

longer than you expect. which means, you know, the first time something takes longer than you expect, you can't just push your whole schedule and assume you'll do everything else faster.

It's quite the opposite. Everything else is going to take more time than you expect as well. Yes. So, you know, you might have to do an 80 percent job on something you'd like to do 100 percent job on, but better than doing absolutely nothing and not finishing your project because you tried to be totally perfect.

And, you know, that's the advantage of the closed universe in theory, it sort of avoids this problem, but you know, some people, I mean, everybody procrastinates, or a lot of people procrastinate, so you might, you know, be so stressed out about this that you could put off reading it, or, you know, I think for something like that, you know, you want to set, like, okay, I'm going to take these two or three hours and read the whole packet, and I'm going to go to the library and really focus, because that's going to get you started on a good note and then you can kind of go from there.

I mean, a lot of times I think people, like, get the packet, kind of screw around for a little while, like, get tired, decide to go to bed, start it the next morning, get up the next morning, go to the gym, you know, and suddenly you're two days into this five day period and you haven't even read it.

Lee Burgess: Yeah, I think that's true.

I think the other thing that can happen, especially in the closed universe assignment, is you're looking or like sneaky tricks that may not actually be there. I mean the thing about a lot of these research and writing assignments is they can actually be hard enough just as they are.

Alison Monahan: Yeah, they're not designed to trick you.

Lee Burgess: No.

Alison Monahan: And like everything you need is there.

Lee Burgess: Right, you can spend a lot of time obsessing over the footnotes because you've decided that the important mention must be in the footnotes, but it's probably not the footnote. I mean maybe, you know. But you know, of course we all know what footnote four of that famous case, Carolene Towing, but most footnotes are not,

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Alison Monahan: Typically not key.

Lee Burgess: Not going to be key.

So it is important to just keep in mind that you need to check in with yourself and make sure you're not going down kind of an obsessive path that's going to waste all your time.

Alison Monahan: Yeah, and keep in mind too, you know, it's totally fine if you're doing your research and you flag like, oh, I need to find a case on this.

I mean, this happens all the time in real life. You'll see memos up until a day before they're submitted, you know in law firms, they're basically saying, like, find case law to support x. You know, it's like, someone knows it's out there but nobody's had time to find it yet. You know, so you might have a decision point where it's like, you know, find case law to say either x or y, like that's a fine, you can go and do half an hour of research in the process of writing but you just can't, like, wait and hold everything else until you go and look for that one case.

Lee Burgess: Yep. Another disaster we have seen and heard is that you get so caught up in your legal research and writing assignment that you don't actually answer the question that was asked.

Alison Monahan: Oh, that's such a common one.

Lee Burgess: Yeah.

Alison Monahan: And you know the good thing about legal research assignments is they typically tell you what they want you to do, probably more so than a lot of exams.

I mean this is obviously a common exam problem as well. But, you know, if you need to be really clear on what you're being asked to do, you know, what type of format are you being asked to write, like what, what tone are you being asked to take? Is this subjective or is this persuasive? You know, we have some blog posts we can link to, but you want to make sure that your tone is in line with the question.

You know, if the question tells you, you are a young associate at firm X and partner has asked you to write a memo discussing this question, Well, that's very different then. You are a law clerk for a judge who's asked you for this, or you know, you are working on behalf of the ACLU and they want you to write a brief on this point, you know, some of those are going to be very different in tone.

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And so part of it's about, you know, actually addressing the question. Question in all of its detail and all of its parts, but a lot of it's also about the tone. You know, if your tone is completely off, it's not gonna bode well.

Lee Burgess: And I think it can be really wise while you're doing this assignment, especially after over multiple days or a weekend, to go back to the assignment and reread it multiple times.

Check in with yourself and make sure that you haven't forgotten something critical, or misread something, or, you know, we can get really excited about going off on tangents and kind of lose the forest through the trees.

Alison Monahan: Oh, absolutely. And this leads into number five, which is that you don't bother planning your assignment or your outline before you start writing.

Lee Burgess: Yes.

Alison Monahan: This is an absolute tool for disaster. And part of this is You need to plan it early so that you can make sure, you know, you have the supporting case law, or you have the supporting statutes, you have the supporting articles, whatever it is, for each point that you're going to need to address. So, you know, there are a lot of different ways to do this.

I think one of the best right now would probably be to use this tool called Trello, T R E L L O, which we love. But what Trello lets you do is make lists for different things, and then cards, it's kind of like an electronic bulletin board. But say you have a topic, you know, I don't know, you're doing a torts question, and you need to talk about duty.

Alright, well, you know, you need to figure out what are the cases that relate to this, what are the facts that relate to this. So something like Trello can really help you organize all that so you can see at a glance, like, oh, this is what's missing. And then when it's time to write your, to write your piece, you know, you just go basically to this board and you're like, okay, everything's all organized, it's clear, I know what I'm going to talk about.

Obviously you can do the same thing on paper, I'm not, you know, that's totally doable too. But I think often some combination of paper and electronics really is helpful.

Lee Burgess: Yeah, and I think one of the mistakes can be is that students feel like they are pressured for time and they're like, oh, well I shouldn't spend any time

organizing it or outlining it because it'll just be more efficient to start writing and then I'll edit it afterwards.

Alison Monahan: Yeah, just gotta get that first draft done.

Lee Burgess: Yeah, that's definitely not the best way to do it. Because a lot of these assignments may have word count limits or page limits.

Alison Monahan: Well, they're almost always.

Lee Burgess: Almost always.

Alison Monahan: The last thing your professor wants is some brain dump that you just bother organizing like every thought you've ever had about this topic.

Lee Burgess: Yeah, and actually organization is a big part of legal research and writing. That is something you really have to focus on. You know, how do you present these arguments to the reader in a way that is supported by the case law and in a way that makes sense. And typically that takes some thought.

Alison Monahan: Yeah. And it's going to take some editing too. You know, like you may find your first draft is 20 or 30 percent too long. I mean, rarely is it the case that you're struggling to fill the page limit in your legal writing. It's usually the opposite.

Lee Burgess: No, exactly. So you definitely need to plan and streamline and make sure you're being thoughtful about, you know, cases and quotes and things like that before you invest in writing.

Alison Monahan: Yeah, and a lot of this is you need to figure out what are the major issues here, what are the minor issues. If you have five pages to work with and you have some minor issue and you spend a page on it, well, you're not going to have time for the like the really key stuff. Yeah. So you're just not going to get the points that you could get otherwise, because you're inevitably going to leave something out, because you should have dealt with this in a paragraph or a sentence instead of a page.

Lee Burgess: Yes. So, another thing that happens that is kind of linked to this as well is that students don't look at samples to make sure that what they're writing looks like, what it's supposed to, like if it's a memorandum of points and authorities, it better look like a memorandum of points and authorities.

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Alison Monahan: You know, if you're asked to say you have like a, you know, some more minor legal writing assignment, or you're asked to like do discovery responses, that should look a certain way. And the reality is, you know, unless you've worked as a paralegal or something like that, you have no idea what these should look like.

So you may have your own sense of like, well, if I was starting from scratch, here's how I would write a motion for summary judgment. But that's not really what you need to turn in. You need to turn in needs to look like something a lawyer would expect to see. And typically it's going to, you know, often your professor is going to give you some sort of sample or refer you to samples because they understand this is a critical part of what you're doing. So, any samples you've been given, you need to follow pretty carefully.

Lee Burgess: And down to the T, like, if they tell you they want the headers to look a certain way.

Alison Monahan: Or a certain font.

Lee Burgess: Or a certain font or a certain spacing or, you know, if they want-

Alison Monahan: Margins.

Lee Burgess: Yeah, if they want statement of facts to look a certain way, if they want questions presented, if they don't want questions presented.

Alison Monahan: Should be bullet points, not bullet points. Like, you might think this is all stupid and, like, tedious to worry about these details, but these are the sort of things you're gonna have to worry about in practice, and your professor's trying to get you ready for that, so, you know, the fastest way to lose points on a legal writing assignment is just to Oh, I'm not going to bother with the formatting they told me to use.

Like, do you really think your professor is going to be happy about that? What does that say about you as a student? It says, basically, you're lazy and you don't care.

Lee Burgess: Yeah, and this gets me on the bar exam, too. Most bar exams have some sort of what they call a performance test, which is basically a very intense, short, legal writing assignment, where they give very specific rules.

And I remember one student writing a statement of facts, even though the directions said, do not write a statement of facts.

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Alison Monahan: Why would you do that?

Lee Burgess: Right, and then she failed the question.

Alison Monahan: Total waste of time.

Lee Burgess: Right, and she failed the question, and she's like, well, I know they said it, but I thought I'd just go ahead and do it.

I'm like, well, you got no points, and then you got deductive points by not following the directions.

Alison Monahan: And you probably made the person who was grading it really, really angry.

Lee Burgess: Yeah.

Alison Monahan: Which is never a good place for them to be when they're evaluating your work. So. Presumably you're going to have some samples you can look at.

Take that as a template, follow it as carefully as possible. If for some reason your teacher has not given you a sample, A, ask them, do you have any samples I can look at? And if the answer is no, well then go to the library and ask them, like, hey, I need to know what a standard motion to dismiss would look like.

Or you can go onto the internet and you can actually search for pretty much every document that's ever been filed in federal court on Pacer. You might have to pay them a dollar, but that's money well spent.

Lee Burgess: Yeah, exactly. Okay, I think we're now down to like number seven on our list. This is another really big one.

Students don't leave any time to edit.

Alison Monahan: Oh yeah, that's really not a great idea.

Lee Burgess: No, so maybe in college, you know, the night before a paper was due, you could crank it out, print it out, get an A. Let's just say that's not going to happen here.

Alison Monahan: No, because nobody's perfect on their first run through. Like your citations aren't going to be perfect, you're probably going to have typos, things are going to happen.

And again, like you're competing with everyone else in the class, and someone is going to take the time to go through this line by line. And like, obviously you

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want to spellcheck it, and there's certain legal terminology that's probably not in the spellcheck yet. You want to make sure it's spelled correctly and add it.

Lee Burgess: Oh, let's talk about spelling. Party names and-

Alison Monahan: Judgment.

Lee Burgess: Judgment.

Alison Monahan: It's amazing how many people don't know how to spell the word judgment correctly.

Lee Burgess: Yes, and then the case names and all that stuff. Like, it's very, very important that that stuff is not misspelled.

Alison Monahan: Yeah, absolutely. I mean, you know, and there, I think this is one of the situations where you definitely need to print everything out.

Lee Burgess: Mm hmm.

Alison Monahan: I mean, I'm thinking of like mentors I had who had ideas about, you know, you go through literally with a ruler. So you're looking at one line.

Lee Burgess: Yeah.

Alison Monahan: Or like slide a piece of paper down so that forces you to really look at each word and make sure that you're not, you know, screwing this up in some way.

Lee Burgess: I read sentence by sentence backwards from the last sentence to the front.

Alison Monahan: Yeah, and, you know, simple things like, God, I have one student who never, ever, ever paid attention to, like, the spacing after a period, and I'm like, how do you not see this? Like, look at it. You have three spaces here, you have two spaces here, you have one space here, like, look at this.

Yeah. And he's like, well, I couldn't really see it on the screen. I'm like, print it out and look at it, like, does this look right to you?

Lee Burgess: Yeah. The other place that this can get really messy is, you know, we were talking about the word or page limits. You get down to the point where you're cutting things out and it's really easy for your verbiage to get super choppy, and

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you just start like deleting words without rewriting sentences, especially late at night.

And then it's a mess to read, and you absolutely don't wanna turn in something that looks like it's been chopped up with a pair of scissors because then you're just waving your arms at the professor being like, it was too long, and I tried to edit it down. But I guess I didn't proofread it, sorry.

Alison Monahan: Yeah, I mean, I think ideally, this is the sort of thing where you want to put that final draft aside and get some sleep, and then get up and read it fresh. Because you're always going to see something on that last run through that you did not see when you were sleep deprived the night before. And people work up until the point they need to turn it in, they skip class, which also really annoys your other professors and don't plan to do that.

Yep. You You know, you need to allow yourself to have that time to do that last read through to make sure it's as perfect as it possibly can be.

Lee Burgess: And I think that general proofreading is separate from what number 8 on our list is, which is not proofreading your citations so your citations are a mess.

Alison Monahan: Or just not bothering to learn how to do them.

Lee Burgess: Oh, or not bothering how to do them, like not taking time with your bluebook to do them. We cannot stress enough that citations are actually really important. They're typically going to deduct points from your score if you mess up your citations, and there's something that actually has to take a lot of time.

I mean, listen guys, on a law review board, there's technically one person whose whole job is just to focus on citations, yet everybody checks citations. Like, this is no joke. Like, people take this stuff really seriously.

Alison Monahan: Yeah, these are lawyers. They're very detail oriented.

Lee Burgess: They're very detail oriented.

Alison Monahan: You know, so there are ways you can, you know, smooth this out.

For example, if they're like, any case that you're gonna cite more than once, you probably want to put into a single document, make sure that citation is perfect, so you can copy and paste. You've got to have, but you also have to understand the bluebook. Like, when you use id, when you not use id, when you do a short cite, when you do a long cite.

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These are kind of a pain, I mean, let's be honest, but, you know, these are the things that you need to know to make a technically perfect document.

Lee Burgess: And you have to go into it with kind of a plan. So I knew folks, and I think I might have tried this at one time or another, who would cite in full cites through the whole first draft, and then they, once they got to that point where the language was all edited, then they would just go back and do short cites, you know, before they turned it in because then they knew they weren't going to like have their sites out of order because if you haven't spent time like getting to know and love your blue book, one of the things that becomes really challenging is you have to, you know, track it. You know, when you can use id, when you can use a short site, when you have to do the full name of the case again, and things like that.

So if you, say, move a paragraph,

Alison Monahan: Yeah, the problem is when you start moving stuff around.

Lee Burgess: Yeah, it can get really, really messy, or deleting sentences, or things like that, you can delete citations. So, I think that although it might seem a little bit painful, because of the beauty of copy and paste, if you take that full site and just drop it in first, and go back and put in the short sites after that, It's not a bad way to, you know, get you pretty close to where you need to be.

Alison Monahan: Well, I think also you could use something like a text expander. So if you can figure out, you know, how to use that, then basically you just type in Marbury and it puts in the full site for you. And then you go back and edit. I think that's actually a really good idea because then everything's in place.

Right. And I think if you, then if you understand how the Bluebook works, you're like, okay. First site long site, second site short, id id id.

Oh, no, now we're eight pages in and need to do the long site again. You just have to understand how it works.

Lee Burgess: Yeah. But taking some serious time when you're rested to build out those first perfect clean sites is very important, because if you don't do the citations right before you set up either inserting text, or cutting and pasting, or copying and pasting, then you could have citation mistakes through the whole thing.

Alison Monahan: Right. I think sometimes people get a little messed up because they think they can just pull a citation, like straight out of Westlaw or something.

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Lee Burgess: Oh no. You can not do that.

Alison Monahan: And that may or may not be correct.

Lee Burgess: Right.

Alison Monahan: You know, you've gotta understand how the Blue Book is telling you to cite things and how your professor's asking you to cite like you're even using the Blue Book, you know, the reality is now there may be three unique citations for a single case because they're in different reporters. Well, if you cite to the wrong reporter throughout your assignment, that is going to be a mess. The other place people get really messed up with the bluebook is not understanding the difference between like federal court citations and state court.

So you can drive yourself crazy because you're trying to cite a state court case, but you're looking for a federal reporter. It's like, think about federalism, you know, like you have state courts and they're cited one way and there's a table for that. Tab your book so you know where it is, and you have federal courts, and there is a different set of citation rules for that.

I think there's some online tools that people can use now. You want to be really careful about whether you're allowed to use those. You know, if you're, if your school does not allow you to use a tool like that and you get caught using it, that's going to be ugly for you.

Lee Burgess: Other things to really pay attention to in the blue book, which a lot of people like to not pay attention to, going back to our spaces discussion, spaces are actually really important in citations.

Alison Monahan: Yeah, I was reading something like FedSOP and like F 3rd or whatever. Like, I think the citation, the spacing is different there,

Lee Burgess: It is, I think.

Alison Monahan: Which does not make any sense.

Lee Burgess: No.

Alison Monahan: But it is the way it is.

Lee Burgess: It is as it is, and so you have to look for that stuff.

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So, again, citations are really, really important. Some students are like, well, I just didn't, you know, have enough time, but let me tell you, know how your program grades, because at my school, you were deducted, I think, like a quarter of a point or something, or half a point for every citation mistake. And so if you had one, if you had a full case citation that you copied and pasted and had a mistake in it throughout the entirety of your assignment, yeah, you could basically lose an entire letter grade on just citations.

And people did constantly.

Alison Monahan: People do that all the time.

Lee Burgess: Yeah.

Alison Monahan: You know, when we talk to students who've just gotten their first assignment back, and they call us because they now think they need help, and we're like, well, what happened? And they're like, well, I guess part of it was I didn't really pay attention to my citation, so I think I lost a lot of points there.

I'm like, that is just, like, that should not happen. Like, if you're serious about doing a good job on this, pay attention to this, because it's just such a stupid place to lose points. Like, it's not impossible for you to figure this out. If you have questions, you know, you want to have enough time that you can ask your professor, maybe they won't help you on that exact citation, but they'll probably help you, like, at least look to the right section of the blue book, or whatever it is.

Lee Burgess: Another thing that some programs do, mine did on my closed universe assignment, they actually checked your quotes, and if you misquoted a case, you were deducted major points. Again, it's not rocket science, but people screwed up their quotes. It's actually a little bit easier to do than you think because you're trying to edit it down, especially again when you start editing things, you're like, maybe I could shorten this quote.

And the way that you edit, whether you use dot dot dot, if you have to insert things in brackets to make it make sense, it can get pretty ugly if you start getting creative with language.

Alison Monahan: One thing you do not want to do, which believe it or not, I saw working as a clerk for a judge, do not try to change the point of a case by, like, omitting a not in your citation, or in your quotation.

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Like, I literally saw, I mean, there's really just literally no faster way to lose all credibility with a person who's reading this, than to change what the case actually says.

Lee Burgess: Awful. Awful.

Alison Monahan: I mean, once you catch that, you know, the judge is like, are you joking? Like, I would never trust these people for anything.

Lee Burgess: No.

Alison Monahan: Like, you have to be accurate.

Lee Burgess: Yeah. It's unbelievable. And if you don't like to spend time paying attention to things like this, maybe the legal practice is not for you.

Alison Monahan: Yeah. I mean, if you really hate every aspect of legal writing, that could be a clear sign that maybe you want to go into, like, marketing or something.

Lee Burgess: Yeah. Yeah. Alright. Next number nine. This one, I can't even believe this happens, but people do it all the time. You are late to turn it in.

Alison Monahan: Oh yeah, like, second easiest way to lose points. Just don't turn in on time. Whoops.

Lee Burgess: Oh my gosh. So my school, they had people waiting. We had to turn in paper copies, and every minute you were late, they deducted more and more points.

At a certain point, they wouldn't even accept it. But you had like a week to do the assignment, and they were basically like, there's no excuse.

Alison Monahan: No, and you should not plan to turn it in at the last minute. I mean, things happen. It's like, what if you're at your house and your internet goes down and you've waited until the last five minutes?

Like, you just don't want to do that. It's not, whatever you're doing in that last half hour is not as valuable as getting it in on time.

Lee Burgess: No, and let's talk about all the other things that can happen. Like, your car gets towed. Your car won't start.

Alison Monahan: You hit traffic. There's an accident.

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Lee Burgess: You hit traffic.

There's an accident.

Alison Monahan: Like, the subway gets stuck.

Lee Burgess: Right. The bus is late. It's like, you do not want to gamble on all of that stuff. You want to leave yourself plenty of time. You get in a car accident.

Alison Monahan: Yeah, inevitably this is like the time something's gonna happen. It was when you're rushing to turn it in at the very last second is when, because A, you're stressed, like, you know, you're more likely to have it cause an accident yourself, but just, you know, if you know that you're a procrastinator and you know that your person is always late, decide you're going to turn it in two hours early. Like, don't even give yourself that time, because then if something happens, you have two hours to deal with it.

Lee Burgess: Yeah. I mean, just don't even give yourself the opportunity to screw it up in this way. It's just not worth it.

Alison Monahan: I was in law school and we had a giant blackout in the entire city of New York. I mean, granted, in that case, it might have given you an extension, maybe, because you literally couldn't print or do anything. But still, like, I wouldn't want to test it.

Lee Burgess: No, no. And, you know, it's interesting because Students get really not to offend our student base that might be listening, but can get kind of righteous about this idea that they're allowed to turn things in.

I mean, I was teaching. I had students, one student write on one of my school evaluations that it wasn't fair that I didn't accept her late assignments, even though the rule in my class was I would give extensions, but I would not accept late assignments. You could contact me before the time was due and tell me why it wasn't going to be late.

And I never did not give an extension, but you weren't allowed to turn it in late because in the real world, you're not allowed to turn it in late.

Alison Monahan: I mean, yeah. Like your client's gonna sit in jail if you're late for a court deadline.

Lee Burgess: Yeah.

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Alison Monahan: Judges have no patience with this sort of thing.

Lee Burgess: No.

Alison Monahan: None. Like literally no patience.

Lee Burgess: No patients. And so, you know, if you think that it's like your school's duty to accept a late assignment,

Alison Monahan: Yeah, think again.

Lee Burgess: Think again. They don't care. And they're actually trying to prepare you. And what I was trying to do as a law professor was to like prepare you to deal with the realities of legal profession, which is if it's due by noon, it's due by noon.

Alison Monahan: No, and I think a lot of professors will frankly take pleasure in telling you absolutely not. Are you joking? You know, they're, they're gonna get very, very righteous about this themselves. You know, I have friends who are professors in other disciplines and they're just like, yeah, I don't have sympathy for these people.

Like what do they think they, my, my job is basically to like wake them up to the reality that they cannot do this.

Lee Burgess: Yeah, exactly. So it's really not something to. Set yourself up for failure on. There's no reason why you should be ever turn it in late.

Alison Monahan: Well, also know what your deadlines are.

Lee Burgess: Oh, yeah. And where you're supposed to turn it in.

Alison Monahan: Yeah. Where, where supposed to turn it in, what your options are like. You know, is there a backup option if for some reason you can't do it electronically, like often there'll be a box you can drop it in or whatever if you have to. Or alternately, like you might have to turn it in on paper and not be allowed to do it electronically, which you do not want to find out 20 minutes before it's due.

When you think like, oh, well, everything else we've just uploaded to this portal, but suddenly you're like, oh, it's supposed to be printed and bound. I mean, that could happen.

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Lee Burgess: It could happen. And the number 10 on our list of law. school legal research and writing disasters is you don't utilize the help available to you.

And I think this is something that a lot of law students forget about because legal writing classes typically have very strict honor code requirements where you may not be able to ask anyone for help, you may not be able to talk to other students about an assignment, you may not be able to talk to outside, you know, people, so friends, relatives, you know, whoever about your assignment.

Alison Monahan: Your aunt who's a lawyer.

Lee Burgess: Right, exactly. But I think one of the mistakes students make is they don't find out who they can get help from. Oftentimes those people are your legal writing professor. You're often allowed to talk to that person. Sometimes the law librarians at the school are able to help you.

They know what the rules are. They're not going to misstep.

Alison Monahan: Well, they might know it though. You cannot assume they know.

Lee Burgess: No, but you can take your syllabus and say, you know, Here's what my syllabus says.

Alison Monahan: But there's not going to be an excuse if someone sees the legal writing or sees a law librarian like doing your research for you and like tells on you and you're like, well, they didn't tell me they couldn't do it.

Like it's your responsibility to know the rules are. And like, you know, we get students coming to us sometimes who are like, I want help with legal writing. And our first question is always, well, what help are you allowed to get?

Lee Burgess: Yeah.

Alison Monahan: And sometimes they know exactly. And they're like, I can get whatever help I want.

And I'm like, great. We can work with you. Or they're like, oh, I haven't really thought about it. It's like, well, you need to go read your syllabus and talk to your professor and, like, make sure you understand this because you don't want to end up in a situation where you're violating the honor code.

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Lee Burgess: I think one of the ways that students, though really lose out on opportunities to get help is using assignments, early assignments, assignments that have already been graded to learn more about how to fix problems.

Alison Monahan: Yeah, exactly. Like once you've turned something in, there's no problem with you getting help on it.

Lee Burgess: Right. And if you struggled with something and you went to your legal writing professor and their help didn't quite answer your questions, you should go to other people for help.

Go to academic support, you know, talk to a tutor,

Alison Monahan: A writing center,

Lee Burgess: Maybe there's a writing center, maybe the law librarians, whatever you can do to try and get your questions answered in a way that makes sense to you, will help you in your next assignment. So for instance, if you missed the boat on how to find XYZ on, you know, your electronic legal research and writing platform, well then go find out the answer so you don't do that again.

Alison Monahan: Yeah, I mean, now you have reps for these programs or people you can call whose job it is to help you, you know, find that case that you didn't find the first time or on citations like say you do a citation assignment and you get like 60 percent. It's like well, there's a lot of room for improvement there. You know that's a sign that you need to get help on this It's not that you're cheating by getting help on an assignment that you've already done

Lee Burgess: People ask is how you can prepare for these assignments and the way you can prepare is by identifying the pain points throughout the semester and getting help as you go.

That's typically why you have intermittent assignments.

Alison Monahan: Yeah. I mean, they're not just giving you these like for, you know, no reason.

Lee Burgess: Right. But if you're supposed to do a statutory analysis and you like flunk that assignment, even though it's pass fail, but they tell you barely passed, you better be in your professor's office hours being like, I need to understand why I didn't pass and how I'm gonna fix it, because the next one, you may not even be able to go in and get that help in the office hours.

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Alison Monahan: Yeah, or you do like a case synthesis, and they tell you like, no, you completely missed the boat. It's like, you don't just drop that, be like, well, I guess I'll figure it out next time. You need to understand what the problems are.

Lee Burgess: Yeah. And this isn't a legal and writing, research and writing disaster, but one of the things that was made a big difference for me in legal writing assignments was don't get creative. Like, don't get creative. The goal is to not write the most original legal research and writing assignment. The goal is just to write the right one.

Alison Monahan: It's pretty formulaic.

Lee Burgess: Yeah, it's very formulaic.

Alison Monahan: So you're not going to be like, I mean, you're a 1L. You're not going to be coming up with like, you know, incredibly original legal insight, particularly not on a closed universe memo. The closed universe memo is designed for you to be like, here's the template I've been told to use.

Here's what it looks like. I'm using it. Here's like the, you know, I've used all the material in the packet. I have not left anything out. My citations are correct. My verbiage is correct. I'm within the word limit. I've done the formatting you've asked me to do. Please give me a reasonable grade. And they'll be like, congratulations, you passed.

Lee Burgess: Yeah, exactly.

Alison Monahan: End of story.

Lee Burgess: End of story. So, you know, it's not about writing the most creative assignment. It's about learning how to write in the legal way.

Alison Monahan: Competently.

We are going for competence.

Lee Burgess: Competence.

Alison Monahan: And that might not sound like much, but trust me, that is a lot. Yeah. To become competent as a legal writer is not a small thing.

Lee Burgess: No, absolutely.

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Again, we would like to thank Thomson Reuters for sponsoring this episode. Please visit them at lawschool.westlaw.com. Alright, and with that, I think we're out of time. So if you enjoyed this episode, or if it was anxiety inducing, I don't know, maybe, we talk about all these potential-

Alison Monahan: Maybe enjoyed is not the best word.

Lee Burgess: Maybe not the best word.

Alison Monahan: Appreciated.

Lee Burgess: Appreciated. I like that. 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. And make sure to subscribe so you don't miss anything we typically release or episode. 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. Good luck on your legal research and writing assignments and we'll talk soon.