

PLAGIARISM¹

Plagiarism is an Honor code violation. Article 1.01(i) of the Honor Code defines “plagiarism” as “quoting, paraphrasing, or otherwise using another’s words or ideas as one’s own without crediting the source in a way that clearly indicates the nature and extent of the source’s contribution to the student’s work.”

Legal writers provide citations for two purposes: authority and attribution. Citations to cases, statutes, regulations, and other primary sources of law are necessary to inform your reader of the sources of the rules of law identified in your writing. Every statement of law in your writing should be followed by a reference to an authority that supports the statement. For example, if you wrote, “Texas courts have held that a contract exists where there is mutual exchange and promises,” you would provide a citation to a case that so holds.

A second function of citations is to identify ideas or text borrowed from either primary or secondary sources. (Secondary sources include articles, encyclopedias, treatises, and other sources which analyze the law.) The failure to attribute ideas or text borrowed from other sources is plagiarism. Plagiarism is a serious academic offense that can result in loss of course credit or, potentially, expulsion. Even outside academic circles, allegations of plagiarism and the attendant perception of dishonesty and lack of integrity can have far-reaching repercussions.

TYPES OF PLAGIARISM

1. Quoting the words of another without attribution
2. Paraphrasing the words of another without attribution
3. Using the ideas of another without attribution

The underlying rule is simple: **DO NOT USE THE WORDS OR IDEAS OF ANOTHER AND REPRESENT THEM AS YOUR OWN. GIVE CREDIT WHERE CREDIT IS DUE. AVOID PLAGIARISM BY INCLUDING A CITATION TO THE SOURCE.**

¹This handout is largely taken from Louis J. Sirico, Jr., A Primer on Plagiarism (Villanova Law School 1988) and was provided to me by Professors Meredith Duncan and Gerry Moohr.

HOW PLAGIARISM APPLIES TO MEMOS, BRIEFS, AND OTHER LAW SCHOOL PROJECTS

1. **Quotations.** As a general rule of thumb, if you reproduce a sequence of seven or more words from either a primary or secondary source, you should place that text in quotation marks and provide a citation to the source.
2. **Paraphrasing.** If you take another's sentence and change a few words, you still must give a citation. If you paraphrase, do not use quotations, but use a signal, usually *see*. There is a grey area between paraphrasing and putting something in your own words. For example, taking a few pages from a law review article or treatise and rewriting them in your own words constitutes plagiarism if you don't make clear that is what you have done. You must decide whether or not a citation is necessary. Err on the side of caution. Usually, you will want to include a citation because a citation to authority increases the persuasiveness of what you are saying.
3. **Original Ideas.** Closely following the structure of another person's written work falls into this category. Debatable cases arise when the structure of another's argument is not particularly original. Again, err on the side of giving credit. A citation increases persuasiveness.
4. **A Sense of Proportion.** You need not place a citation after every sentence you write. Excessive cites are unattractive and break the flow of sentences and your argument. They also suggest that you have avoided thinking and instead have pasted together the words of others. This sort of cut-and-paste product rarely is effective. In deciding when to cite, use your common sense. If you have questions, ask them before your deadline for submission. Avoid putting yourself and others in an embarrassing position.

ILLUSTRATION

The left hand column is an excerpt from a fictitious law review article. The right hand column is a plagiarized version.

The classic cases on the law of lost and found property are worthless guides for a principled court. Authorities frequently cite *Armorie v. Delamirie* as the major finder's case. The case, however, is about the rights of a finder against those of a subsequent possessor who wrongfully converted the property. The court's brief discussion of the comparative rights of the finder and true owner is dictum. In *South Staffordshire Water Company v. Sharman*, workers found gold rings on their employer's property. The court announced a rule accurate as a generality – the owner of a *locus in quo* presumptively possesses items on the land – when it could have relied on an uncontroversial rule – employees who find things in the course of their employment act as agents of their employers. In reaching its holding, the court entirely misread *Bridges v. Hawkesworth*, another tradition case. In *Hannah v. Peel*, the court offered a thorough discussion of the law and then ignored it to reach a curious result.

The classic cases on the law of lost and found property are worthless guides for a principled court. Authorities frequently cite *Armorie v. Delamirie* as the major finder's case. The court's brief discussion of the comparative rights of the finder and true owner is dictum. The case really is about the rights of a subsequent possessor who wrongfully converted the property. *South Staffordshire Water Company v. Sharman* concerns workers who found gold rings on their employer's property. Though the court could have rested its opinion on an uncontroversial rule – employees who, in the course of their employment, find personal property act on behalf of their employers – it chose to rely on a rule that is accurate only as a generality – the owner of a *locus in quo* presumptively possesses items on the land in question. The court betrayed its lack of understanding by misreading *Bridges v. Hawkesworth*, another standard case. The court in *Hannah v. Peel* reached a curious conclusion after offering a thorough discussion of the law and then ignoring it.

COMMENTS ON THE ILLUSTRATION

The first two sentences in the right-hand column are the clearest examples of plagiarism. The writer copied them verbatim without quotation marks and without citation. The next two sentences are virtually verbatim, but in reverse order, perhaps to mislead the reader who is familiar with the original article. In the remaining sentences, the writer has rearranged parts of sentences and changed a few words here and there. Throughout, the writer has employed the organizational structure and substantive ideas of another without giving credit.

By failing to give proper attribution, the writer has reduced the persuasiveness of the argument. Citations to the article would have demonstrated that a published authority shared the writer's view and thus made the argument stronger.

If you have any questions, please do not hesitate to ask me.