

Intro to Paralegal – 03/26/14

Analogous

Facts

Issues

Rule Comparison

Fact Comparison

Issue Rule Analysis Conclusion (IRAC)

On all fours – Exactly the same, or almost so, being a very close precedent.

Mandatory – the court has to use – always primary

Primary – law court may or can use

Secondary – always persuasive

Persuasive – law or non-law that the court may use

## **Chapter 8**

Fact Particularization – a fact gathering technique to generate a large list of factual questions (who, what, where, when, how) that will help you obtain a specific and comprehensive picture of all available facts that are relevant to a legal issue.

Date and Time Details -

Place and Environment Details

Details on Other Participants

Extent of Certainty and Uncertainty

Verification Details

Analogies

Miscellaneous Details

Further away from the incident the harder it is for witnesses to remember.

Draw a diagram or map

How certain are you?

How to make a recorded interview immiscible in court. As you are calling the witnesses ask permission to record them. If the person is hesitant, bring it along and they can stop it at anytime. I want to get it right.

Licensed investigator can record without knowledge. Not paralegals.

Your Name

Witnesses

Case No.

Do I have permission to record?

Let witness know you will send him a copy of the transcription and he can approve or make changes.

Have notary notarize the witness signature.

How is going to help us settle or how is it going to help with trial.

Request for admissions must be answered with fifteen (15) days or it will be deemed to be admitted.

Paralegals need to know procedural law. Not substantive law

Substantive law – Nonprocedural laws that define or govern rights and duties.

Admissible – Allowed into court to determine its truth or believability.

Direct Evidence – Evidence (based on personal knowledge or observation) that tends to establish a fact (or to disprove a fact) without the need for an inference. Also called positive evidence.

Circumstantial evidence – Evidence of one fact from which another fact (not personally observed or known) can be inferred. Also called indirect evidence.

Relevant – pertinent. Logically tending to establish or disprove a fact.

**Privilege – 5<sup>th</sup> amendment right.**

- 1. a special legal benefit, right, immunity or protection.**
- 2. A rule of evidence.**
- 3. Belongs to the client.**

**Confidentiality –**

- 1. an ethical rule.**

**Attorney-client privilege – A client and an attorney can refuse to disclose any communication between them if the purpose of the communication was to facilitate the provision of legal services to the client.**

**Work product rule - Notes, working papers, memoranda, or similar things prepared by or for an attorney in anticipation of litigation are not discoverable by an opponent, absent a showing of substantial need. They are protected by privilege.**