

To: All new 1L students
From: Foundations faculty (Bodensteiner, Cichowski, Janoski-Haehlen, Knowles, Stuart)
Date: June 2014
Re: First day's writing assignment

For the first class in Foundations, you must hand in a 2-page written explanation of the lawyers' solution to one of the legal problems in *The Buffalo Creek Disaster* (see page 2).

This 2-page essay must be typed, in 12-point font, and double-spaced with a professional heading like the one above but edited to indicate the appropriate professor's name, your name, and the correct date. It must have one-inch margins on all four (4) sides, and you must staple the pages together in the upper left corner. Please do not print it out on both sides of one page, so we have space to comment liberally.

This essay is the first of many professional writing assignments you will be required to complete in your professional career; communicating both the problem and the solution to the problem, clearly and competently, is essential. This assignment is also your opportunity to impress us with your writing skills, so we will be looking for proper paragraph formation, sentence structure, grammar, punctuation, and following directions in addition to your problem-solving skills.

A useful organization for professional writing is the following:

- An introductory paragraph posing the problem and giving the solution
- Supporting paragraphs that more fully explain each part of the problem, including the arguments for and against the solution
- Concluding paragraph that describes the solution

The PROBLEM:

A lawyer initiates a civil lawsuit by filing a complaint. But she cannot just file it anywhere; she has to decide where to file it. This raises questions of jurisdiction and venue. As you will learn during Orientation, there are questions about which state has jurisdiction and in which court—state or federal—in that state to file. If the Plaintiff’s lawyer files suit in the wrong state and/or the wrong court in that state, her client’s complaint might be dismissed. Both of those questions were very important to the success or failure of the complaint filed after the Buffalo Creek Disaster, but your essay will only address one of them.

The Buffalo Creek Disaster is the story of how Gerald Stern and his colleagues solved problems for clients who had been harmed when a coal company’s refuse pile failed, resulting in massive flooding in Buffalo Creek Valley in West Virginia. When Stern was deciding to file the Complaint on behalf of the Plaintiffs, he was faced with a jurisdictional problem about which court to file in. To solve that problem, Stern—like all lawyers—had to look at both the facts and law that might affect his jurisdictional choice. When he did make that choice, the Defendant tried to dismiss the case, also relying on facts and law that could prove that Stern’s choice was the wrong one.

Your 2-page essay must examine how both sets of lawyers tried to solve this jurisdictional problem for their respective clients and why the court ruled the way it did. All the information you will need is in *The Buffalo Creek Disaster*, so as you’re reading the book, make sure you also are reading intentionally for this assignment. (You might also benefit from reviewing other handouts for Orientation, such as “Anatomy of a Lawsuit” and “United States Legal System.”) Using organizational choices that will help the reader understand the problem and the solution(s), you should consider how your reading answers the following questions:

- In which court did Stern not want to file and why?
- In which court did Stern file and why?
- Why did Stern’s selection of a defendant affect the jurisdictional choice? Explain with both facts and law.
- Which legal principle did Stern use to select this particular Defendant for that court? Explain with both facts and law.
- How did the Defendant respond to the Complaint and why?
- What were the parties’ arguments for and against Defendant’s response to the Complaint?
- How did the court rule and why?