PART I STUDY OUTLINE

I. INTRODUCTION

A case that governs or affects the outcome of a client’s case is commonly referred to as being “on point.” Research locates the law, analysis determines how the law applies, and legal writing assembles and integrates the results into a usable form.

II. DEFINITION—ON POINT

A case is on point if the similarity between the key facts and rule of law or legal principle of the court opinion and those of the client’s case is sufficient for the court opinion to govern or provide guidance to a later court in deciding the outcome of the client’s case. In other words, does the court opinion govern or guide the resolution of an issue in the client’s case? If a case is on point, it is precedent.

III. ON POINT—IMPORTANCE

The determination of whether a case is on point is important because of two doctrines: precedent and stare decisis.

A. Precedent

Precedent is an earlier court decision on an issue that governs or guides a subsequent court in its determination of an identical or similar issue based on identical or similar key facts.

B. Mandatory Precedent

Mandatory precedent is precedent from a higher court in a jurisdiction. If a court opinion is on point, that is, if it is precedent, the doctrine of stare decisis mandates that the lower courts in the jurisdiction follow it.

C. Persuasive Precedent

Persuasive precedent is precedent that a court may look to for guidance when reaching a decision but is not bound to follow.

D. Stare Decisis

The doctrine of stare decisis is a basic principle of the case law system that requires a
court to follow a previous decision of that court or a higher court in the jurisdiction when the decision involves issues and key facts similar to those involved in the previous decision.

Determining whether a case is on point and finding cases on point is important for the following reasons:

1. The determination must be made before the case may apply as precedent and be used and relied upon by a court in its determination of how an issue will be decided.

2. A researcher needs to find cases that are on point to guide the attorney as to how the issue in the client’s case may be decided and to help the attorney determine what course of action to take.

IV. DETERMINING IF A CASE IS ON POINT

For a case to be on point and apply as precedent, there are two requirements:

1. The significant or key facts of the court opinion must be sufficiently similar to the key facts of the client’s case; or if the facts are not similar, the rule of law or legal principle applied in the court opinion must be so broad that it applies to many diverse fact situations, and

2. The rule of law or legal principle applied in the court opinion must be the same or sufficiently similar to the rule of law or legal principle that applies in the client’s case.

A. Step 1: Are the Key Facts Sufficiently Similar?

If there is not a sufficient similarity between the key facts of the client’s case and the court opinion, the opinion usually cannot be used as precedent—that is, it is not on point.

1. Identical or Nearly Identical Key Facts

   When the key facts in the court opinion are identical or nearly identical with those of the client’s case, the opinion is on point factually and can be a precedent that applies to the client’s case if the requirements of step 2 are met.

   On all fours: opinions where the facts of the opinion and those of the client’s case and the rule of law that applies are identical or so similar that the court opinion is clearly on point.

2. Different Key Facts

   When the key facts of the court opinion and the key facts of the client’s case are not identical, the opinion may be on point and may apply as precedent. It depends on the degree of the difference.

   Use the following three-part process to determine the degree of difference:

   Part 1: Identify the similarities between the key facts in the client’s case and the court case.

   Part 2: Identify the differences between the key facts.
Part 3: Determine if the differences are of such a significant degree that the opinion cannot apply as precedent.

Four variations may be encountered when dealing with different key facts:

a. Minor Difference in Key Facts—Case on Point
b. Major Difference in Key Facts—Case Not on Point
c. Major Difference in Key Facts—Case on Point
d. Major Difference in Key Facts—Case on Point, Broad Legal Principle

B. Step 2: Are the Rules/Principles of Law Sufficiently Similar?

The second step is to determine whether the rule of law or legal principle applied in the court opinion is the same rule of law or legal principle that applies in the client’s case.

Note two situations when performing step 2:

1. The rule or principle applied in the court opinion is the same rule or principle that applies in the client’s case.
2. The rule or principle applied in the court opinion is different from the rule or principle that applies in the client’s case.

1. Same Rule or Principle

If you determine that the key facts are sufficiently similar so that the court opinion can apply as precedent and the same rule of law is involved in both the opinion and the client’s case, the requirements of step 2 are met, and the case is on point.

Note that the same rule of law may apply, but its application in the client’s case may result in an outcome different from the outcome in the court case.

2. Different Rule or Principle

Can the court opinion apply as precedent? The general rule is no.

Exceptions: The court’s interpretation of a provision of a legislative act or case law rule or principle may be so broad in scope that it applies to the different law or rule that governs the client’s case. It is not mandatory precedent.

There are two areas to explore when considering these exceptions:

a. Legislative Acts. A court opinion interpreting one legislative act may be used as precedent for a client’s case that involves the application of a different legislative act when two requirements presented are met:

(1) There is a similarity in language between the legislative acts, and

(2) There is a similarity in function between the legislative acts.

NOTE: In every situation where the statutes are different in function, even if they have some similarities, an argument can be made that the
difference, no matter how slight, dictates that a court’s interpretation of
one statute in one case cannot apply to another statute in a different case.

b. **Case Law Rule or Principle.** A court opinion interpreting one case law
rule or principle may be used as precedent for a client’s case that involves
the application of a different case law rule or principle when:

1. There is a similarity in language between the case law rules or
   principles, and
2. There is a similarity in function between the case law rules or
   principles.

**NOTE:** In every situation a counterargument may be made that the
functions of the two doctrines are clearly different, so the court opinion
cannot apply as precedent.

**NOTE:** Be careful. It is always preferable to locate an opinion that applies
a rule or legal principle that is the same as the rule or principle that applies
in the client’s case.

**PART II  STUDY QUESTIONS**

1. What is case law analysis?
2. When is a case on point?
3. What is precedent?
4. What is mandatory precedent?
5. What is persuasive precedent?
6. What is the doctrine of stare decisis?
7. What are the two requirements for a case to be on point and apply as precedent?
8. What does the phrase “on all fours” refer to?
9. When some of the key facts of a court opinion are different from those of the client’s
case, what three-part process is recommended for determining if the court opinion is
usable as precedent?
10. When may a court opinion interpreting one legislative act be used as precedent for a
client’s case that involves the application of a different legislative act?
11. When may a court opinion interpreting one common law rule or principle be used as
precedent for a client’s case that involves the application of a different common law
rule or principle?
PART III ASSIGNMENTS

ASSIGNMENT 1
Refer to the Student Companion Site Chapter 3, Assignment 3; discuss why *Baumgardner v. Stuckey* is on point.

ASSIGNMENT 2
Refer to the Student Companion Site Chapter 5, Assignment 2; discuss why *United States v. Howard* is on point.

ASSIGNMENT 3
Read the fact situation presented later and *United States v. Kutas*, presented in Student Companion Site Chapter 5, Assignment 3. Is *United States v. Kutas* on point? Why or why not?

**Facts:** Client was serving a sentence in a federal penitentiary. He challenged certain state court sentences imposed upon him in a state case. He was transported to state custody for a hearing on the state matter and was held in the county jail. At the close of the proceedings, he was returned to the county jail to await delivery to the U.S. Marshal for transportation back to federal prison. He escaped from the county jail. He stayed at a former girlfriend’s house until he was captured and returned to federal prison. He was charged with escape in violation of 18 U.S.C. § 751, escape from the custody of the Attorney General or his authorized representative. He claims that he was not in federal custody when he escaped.

ASSIGNMENT 4
Refer to the fact situation presented in Assignment 3 and *United States v. Howard* presented in the Student Companion Site Chapter 5, Assignment 2. Is *United States v. Howard* on point? Why or why not?

PART IV WEB ASSIGNMENTS

ASSIGNMENT 1
In the following examples use the statutory and case law presented in the libel case hypothetical presented in the Application section of Chapter 6. The case referred to in the hypothetical is *Cox v. Redd*. The question is whether the client has committed defamation. Libel is written defamation; slander is oral defamation. In each example, determine whether *Cox v. Redd* is on point.

Example 1
Client is at a party when he sees a person he falsely believes has cheated him in a business deal. He approaches the person, pulls him off to the side, and says, “You are a liar and cheat. You cheated me out of that contract.” People standing nearby heard the
comment. Client did not intend for others to hear, but he was not careful to keep his voice down.

**Example 2**

Client writes a letter to the local newspaper claiming that a local store intentionally sold her defective merchandise. On the way to the post office to mail the letter, she runs into a friend, Jim. After she tells Jim the story, he informs her that the merchandise is not defective; rather she has simply misread the directions. On the way home the letter falls out of client’s pocket. A passerby finds the letter and puts it in the mail. The local newspaper subsequently publishes the letter.

**Example 3**

Client falsely believes that Alice, a college student, is a drug dealer. He mails her a letter, addressed to “Alice,” claiming that she sells drugs to school children and should go to jail. Alice shares an apartment with her boyfriend, a medical student. Client is aware of the fact that Alice and her boyfriend occasionally open each other’s mail. When the letter arrived, Alice’s boyfriend opened and read it.

**ASSIGNMENT 2**

In the following examples, use the *Melia v. Dillon Companies, Inc.* case presented in Chapter 5, web assignment 7. The client wants to sue for false imprisonment. In each example, determine whether *Melia v. Dillon Companies, Inc.* is on point.

**Example 1**

Client was shopping in a local grocery store. She thought she needed only a few items, so she did not get a grocery cart. As she shopped, she remembered she needed another item, and, because her hands were full, she put the extra item—nail polish—in her coat pocket. She left the store without paying for the polish. A store security person saw her put the polish in her pocket and stopped her when she left the store. Client explained that she intended to pay for the polish but forgot it was in her pocket. The guard informed her that she was being held for shoplifting and called the police. Client was charged with shoplifting. At trial she was found not guilty.

**Example 2**

Client was shopping in a local grocery store. She thought she needed only a few items, so she did not get a grocery cart. As she shopped, she remembered she needed another item, and, because her hands were full, she put the extra item—nail polish—in her coat pocket. Later she realized that she did not need the polish and put it back. A store security person saw her put the polish in her pocket, but did not see her put it back. When she left the store, the guard stopped her and returned her to the manager’s office, stating that she was being held for shoplifting. After she emptied her pockets, the store manager apologized and allowed her to leave.
Example 3

Client is a member of a rock band. He has nose and ear rings and one half of his head is shaved. He always wears dark baggie pants and a black trench coat. It seems that whenever he goes shopping, he is invariably followed by store security. One day he went shopping at a clothes store and tried on several items in the dressing room. When he did not find anything he liked, he left. As soon as he exited the store, he was stopped by two security guards. They took him to the security office and held him for 30 minutes before searching him. He was allowed to leave when the search revealed that he had no stolen merchandise.

PART V  CHAPTER SUMMARY

Court opinions are important because under the doctrines of precedent and stare decisis, judges reach decisions according to principles laid down in similar cases. Therefore, a researcher should find a case that is precedent (on point) because it guides the attorney as to how the issue in the client’s case may be decided. An opinion is on point, and may be considered as precedent, if a sufficient similarity exists between the key facts and the rule of law/legal principle that governs both the court opinion and the client’s case.

When considering the key facts, the heart of the process is identifying the similarities and differences between them. The more pronounced the differences between the facts of the court opinion and those of the client’s case, the greater the likelihood that the opinion is not on point. Be critical in your analysis when there are differences. Always check other avenues of research when the key facts are different.

Where the key facts are sufficiently similar for the opinion to be considered on point, look to the rule of law that governs the court opinion and the client’s case. Where the same rule applies in the same way, the opinion is usually on point. Where a different rule applies, a court opinion usually cannot apply as precedent. Where the language and function of the applicable rules/principles are sufficiently similar, however, it can be argued that an opinion is on point and can be used as precedent.

Reliance on a court opinion that applies a different rule/principle than that which applies in the client’s case is risky and should occur only when there is no case that interprets the rule or principle governing the client’s case.