Cracking the Code to Writing Legal Arguments: From IRAC to CRARC to Combinations in Between

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What Attorneys Can and Cannot Say In and About Litigations

by Martin H. Samson

Also in this Issue
Election Law
Insurance Law Update
Lawyering Then and Now
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Many legal-writing professors teach their first-year law students the IRAC model as an organizational method to write legal arguments. IRAC stands for Issue, Rule, Application, and Conclusion. Law students use it to pass exams, to outline, and to write the discussion sections of their legal memorandums and the argument sections of their briefs. Many students find that IRAC gives their writing organization. Others find that IRAC prevents them from making creative arguments — that it stifles them and impedes their learning. They use it — when they use it — only because they are told to use it, even though some professors — notably legal-writing professors — opt for a more flexible model.\(^1\)

After law school, some lawyers abandon their IRAC roots. Some of these lawyers become lazy: They write just to submit a document, without devoting much effort to structuring their legal analysis. Others find IRAC too rigid: They find that it prevents them from developing legal arguments according to their own style of writing.\(^2\) These lawyers have forgotten that law school taught them important and lasting skills. Their decision to draft briefs without using an organizational model is unwise. The audience for their persuasively written briefs — judges — need writing drafted according to an organizational method that conveys arguments efficiently.

Lawyers who refuse to use IRAC should replace it with something else. Smart lawyers use IRAC variations to formulate their written arguments. Lawyers who use IRAC or any of its variations will avoid missing important, logical steps in an argument or will fail to address the argument’s weaknesses. All legal writers will improve their writing skills and their submitted product by using IRAC or one of its many variations.\(^3\)

The IRAC model has become so pervasive in the legal community that it has given rise to a seemingly endless array of other acronyms.\(^4\) Law professors have created rich and varied terminology to describe legal writing and the legal-writing process.\(^5\) This article is designed to introduce lawyers to other organizational methods that go beyond IRAC. One method is CRARC, the Legal Writer’s patent-pending model.

Of the many organizational models deviated from IRAC, one that fully captures all elements of persuasive legal writing is CRARC. CRARC stands for Conclusion, Rule, Application, Rebuttal and Refutation, and Conclusion. You, the lawyer, should use CRARC as a roadmap to structure an argument section when drafting a persuasive trial or appellate brief. CRARC guides you to begin an argument with a persuasive conclusion statement instead of a neutral issue statement. It also directs you to craft a rebuttal that acknowledges the potential weaknesses of a client’s case and preemptively refutes the other side’s contentions. Anticipating a rebuttal will give you credibility without undercutting an argument. Although some IRAC models recognize the value of drafting an introductory topic sentence in the form of a conclusion or the need to address counter-arguments at the application stage,\(^6\) the traditional IRAC model overlooks these elements.

Lawyers may also use IRARC — another Legal Writer patent-pending format and a CRARC variant — when drafting an objective memorandum. IRARC stands for Issue, Rule, Application, Rebuttal and Refutation, Conclusion. The difference between CRARC and IRARC is that the former begins with a persuasive conclusion statement and the latter begins with a neutral issue statement. Because the Legal Writer recommends CRARC for persuasive legal writing, this article will focus on CRARC.

CRARC holds many advantages over both IRAC and IRARC for persuasive briefs. Both IRAC and IRARC begin with a neutral restatement of the issue in the case. When you restate an issue up-front, you miss an opportunity to persuade the reader. CRARC guides you to begin your argument with a conclusion, which allows you immediately to tell the reader why you should win. It also helps you analyze important facts and prevents you from missing crucial facts. A properly CRARCed argument section addresses the strongest arguments first, followed by weaker arguments and public-policy arguments. This is the best method for persuasive writing. It draws the court’s attention right away to the arguments with which it might agree.

IRAC and IRARC should not be ruled out completely; either tool can help you draft neutral office memorandums. IRARC is better than IRAC.

Continued on Page 50
because, like CRARC, it compels you to provide a rebuttal and refutation. Just like the Rebuttal and Refutation section in CRARC, the rebuttal section in IRAC will help you gain credibility with the reader, and it will help you focus your arguments.

Before we delve deeper into these models, here are some other IRAC variants that law professors recommend and practitioners use:

- **BaRAC.** Bold assertion, Rule, Application, and Conclusion.
- **CIRAC.** Conclusion, Issue, Rule, Application, Conclusion.
- **CRAC.** Conclusion, Rule, Application, Conclusion.
- **CRAFADC.** Conclusion, Rule, Authority, Facts, Analogize/Distinguish, Conclusion.
- **CREAC.** Conclusion, Rule, Explanation of the law, Application, Conclusion.
- **CRuPAC.** Conclusion, Rule, Proof, Analysis, Conclusion.
- **FIRAC.** Facts, Issue, Rule, Analysis, Conclusion.
- **FORAC.** Facts, Outcome, Rule, Application, Conclusion.
- **IDAR.** Issue, Doctrine, Application, and Result.
- **IGPAC.** Issue, General rule, Precedent, Application, Conclusion.
- **ILAC.** Issue, Law, Application, Conclusion.
- **IRAAAPC.** Issue, Rule, Authority synthesis, Application, Alternative analysis, Policy, Conclusion.
- **IREAC.** Issue, Rule, Explanation, Application, Conclusion.
- **MIRAT.** Material facts, Issues, Rules, Application, Tentative Conclusion.
- **RAFADC.** Rule, Authority, Facts, Analogize, Distinguish, Conclusion.
- **TREACC.** Topic, Rule, Explanation, Analysis, Counter-arguments, Conclusion.
- **TRRAC.** Thesis, Rule, Rule explanation, Application, Conclusion.

### Structuring the Brief

A valuable way to organize a legal argument is to give the reader a roadmap, which CRARC provides. A roadmap serves as a mini-thesis that tells the reader what you’re about to discuss. Place your roadmap after your thesis and just before each individual CRARC. A roadmap constructed under the CRARC model instantly reveals the overall legal argument, the rule, how the rule applies to a particular set of facts, and the counter-argument, all before the reader begins to read the details of your argument.

Place your Rebuttal and Refutation in the right place in your brief so as not to undercut your argument. The places with the most emphasis in an argument are the beginning and the end, while the place with the least emphasis is the middle. With CRARC, an argument begins and ends with a persuasive conclusion. The best place for your Rebuttal and Refutation, then, is in the middle of the argument. This section addresses the flaws in your argument and should be the least memorable. If you follow CRARC, you’ll place the Rebuttal and Refutation section in the middle of your argument, between your application and final conclusion. This way, you show the reader that you understand your opponent’s position but you have good reasons to support your own position.

The structure of a lawyer’s argument section of a brief might look something like this:

1. **Point Heading**
   - Thesis section
     - A. Sub-point heading
       - Sub-thesis
         1. Sub-sub point heading
        2. Sub-sub thesis
     - Sub-sub thesis

### Point Heading

Use CRARC for the thesis, sub-thesis, and sub-sub thesis sections. The point heading is the conclusion you want the reader to agree with, and it summarizes the basis for your conclusion. It should be general enough to encompass all sub-arguments. For more information, see the Legal Writer’s column on writing effective point headings. The thesis section shouldn’t be longer than two pages. Organize your argument into as many sub-sections as you need, depending on the number of issues. If you have a two-part test, for example, use point heading I for the first part of the test and point heading II for the second part of the test, if both parts of the test are at issue. The sub-point headings will deal with the specific prongs of the rule or elements of the test. If you use sub-points, or sub-sub-points, then each one should also be CRARCed. Having a thesis section after each sub-point and sub-sub point heading in a CRARC format might seem repetitive, but it will help readers understand your argument. Keep the sections concise. CRARC permeates every aspect of the brief. Its success will depend on how you organize the arguments into points, sub-points, and sub-sub points. The entire argument section of the brief should be one large CRARC and, for the most part, each sub-point, sub-sub-point, and so on should be CRARCed.

### CRARCing the CRARC

Use the CRARC model for each issue, and have the courage to limit the number of CRARCs to those issues that have a reasonable likelihood of success. Issues — and, thus, separate CRARCs — consist of individual grounds on which the court might grant the relief you seek if it agrees with you on that issue but disagrees with you on everything else.

Your strongest CRARC, or at least the one that will give you the greatest relief, should be listed first, although...
threshold arguments like those involving the statute of limitations or jurisdiction always go first. Because you’ll focus on proving your conclusion, using CRARC will help you avoid addressing tangential issues.  

**Beyond the Acronyms: The Meaning of CRARC**

**“C”: Conclusion.**
- The Conclusion section is a succinct summary of your main argument on an issue and why you should win.
- This first “C” is a conclusion about how the court should deal with your legal issue.
- The initial conclusion is your initial and most valuable opportunity to persuade the reader why you should win. This is what distinguishes CRARC from IRAC or IRARC. With the latter two, unlike with CRARC, you begin with a neutral restatement of an issue.
- The Conclusion section shouldn’t be a blanket restatement of your point, sub-point, or sub-sub-point heading. Restatements waste an opportunity to persuade. The Conclusion should succinctly summarize the argument you’ll make in the CRARC ahead. It could be more detailed than a heading, but it needn’t be.
- In an appellate brief, the first Conclusion answers the question on appeal in your favor. In a trial memorandum, the first Conclusion will state why the court should rule in your favor on the issue in your case.

**“R”: Rebuttal and Refutation.**
- Rebut your adversary’s strongest arguments one at a time and refute them, before moving on to the next rebuttal, with your strongest counter-arguments.
- Bolster your credibility by showing the court that you recognize counter-arguments (those that criticize or distinguish the law or facts of a case you cited in the Rule section). Explain why your position is correct despite potential or apparent weaknesses.
- Explain why your adversary’s arguments are unpersuasive. Your first sentence in this section should begin with a statement showing how (1) the opponent’s case is unpersuasive for a specific reason, (2) your opponent’s use of a case is misplaced for a specific reason, or (3) the opposing argument isn’t compelling for a specific reason. After the first sentence in this section, state the law that shows the truth of the sentence. Then apply the law to the case. Then conclude. To rebut a second or third argument, follow the same framework.
- State your opponent’s position neutrally and honestly and then refute that position with facts or law favoring your position.
- Don’t repeat rules you already gave in your Rule section.

**“A”: Application.**
- Argue your facts here.
- Apply to the facts of the case the rule you identified as relevant. If your rule has a set of elements or factors, then apply them to your facts accordingly.
- Even if the rule you’ve enunciated comes from a case that contains dissimilar facts, show how the rationale behind the rule applies in your case.
- Don’t simply recite facts in the Application section. The Application section is where law and fact meld. Attach legal significance to the facts of your case. Merely stating, without applying, the facts of precedential cases won’t persuade the reader. Don’t expect the reader to compare the cases with your facts and reach the conclusions you urge.
- Your Application contains your factual and legal arguments and should support your conclusion.

**With CRARC, an argument begins and ends with a persuasive conclusion.**

- Raise binding authority before you raise persuasive authority.
- Consider using parenthetical explanations to explain case law.
- Paraphrase the law or quote directly from the law.
- State your rules in order from those most favorable to your case to those least favorable to your case under the law. Then cite your strongest authorities first.
- Cite relevant statutes or case law after each rule, but do not string-cite to show off your research.
- The Rule section can be more than one paragraph; it should be as long as it needs to be to encompass the rule.
- Don’t give more rules than the court needs to decide your case. Be brief and concise.
- Case comparisons are ineffective, except when one case contains facts similar to your case.
- In a thesis paragraph, provide only a brief application. You’ll apply the law to the facts in detail in later points and sub-points of the brief.
Application: Gregory scratched Lisa’s leg with his umbrella. The intent element is absent from this case. When Gregory scratched Lisa with his umbrella, he did not intend to touch Lisa harmfully or offensively. Gregory intended only to scare her.

Rebuttal and Refutation: Although he did not touch Lisa directly with a part of his body, the indirect contact of his umbrella with Lisa’s leg satisfies the harmful contact element of battery. But although Gregory intended to scare Lisa, merely intending to scare a person is not sufficient for battery, a specific-intent crime. To satisfy specific intent, Lisa had the burden to establish that Gregory intended to harm or offend Lisa when he scratched her with his umbrella. Because Lisa did not prove that Gregory intended to harm or offend her when he scratched her leg, the requisite element of intent for battery is absent here.

Conclusion: Because Gregory intended only to scare Lisa when his umbrella scratched her leg, the court will likely affirm the trial court’s decision and find that Gregory is not liable for battery.

The CRARC example is also more persuasive than IRAC because it begins with a sharp conclusion statement as opposed to the neutral issue restatement in IRAC. From the beginning, the reader knows that you advocate Gregory’s position. The reader will view the rest of your argument through Gregory’s lens.

The CRARC example is also more persuasive than its IRAC counterpart.
CRARC provides a more credible analysis of the law. In the battery example, CRARC provides a rebuttal and refutation of the intent issue that the IRAC model neglects. The rebuttal and refutation is an excellent tool because it allows you to concede points that you must concede to win on an issue, without undercutting your argument. It shows the reader that you understand your opponent’s position but that you still have a persuasive reason for the court to favor your position under the law and the given set of facts.

Like any other organizational method, CRARC is only one way to write a persuasive, logical, and consistent brief. Although critics argue that strict adherence to any organizational method hinders good writing,26 following CRARC helps you focus and develop strong and persuasive legal arguments. With CRARC, each argument and each paragraph within the argument will support your conclusion. CRARC provides a structure in which you can logically express your legal analysis. The heavy lifting of legal analysis still remains your duty, but CRARCing will consistently help you write persuasive briefs.

Benefits to Using CRARC Over IRAC or IRARC

Of the many variations of the IRAC model, CRARC — through its use of both an opening conclusion statement and a rebuttal and refutation section — stands as an effective model for persuasive written advocacy. In form and substance, CRARC is a crucial tool for lawyers seeking to argue their clients’ cases in the appellate or trial context. It avoids a neutral opening issue statement and forces the lawyer to acknowledge but also to counter an adversary’s argument (substance). CRARC also reflects an important strategy in its structure. It places the conclusion statement up-front and puts the rebuttal and refutation section in the middle of the argument (form). This does not reflect an arbitrary or pointlessly rigid methodology. Rather, it is a tool built from research and experience, and one that provides the level of organization courts and judges need.

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4. Id. at 730; see Anita Schnee, Logical Reasoning “Obviously,” 3 J. Legal Writing Inst. 105, 120-21 (1997) (discussing the deductive process of IRAC and similar models).
7. Pollman & Stirsion, supra note 5, at 255.
9. Id. at 135.
12. Pollman & Stirsion, supra note 5, at 259.