

Introduction to Argument Diagramming with the LASAD System

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02/01/12

By now, you have completed, or will soon complete, the assignment to read the 9th Circuit Court of Appeals opinion in *U.S. v. Alvarez* and create an outline of the majority's and dissent's opinions in a Word file. You have been assigned the task of writing a brief on appeal to the U.S. Supreme Court in support of either the U.S. Government or Alvarez. Although the 9th Circuit opinion contains much useful information for preparing such a brief, experience in similar assignments suggests that first year law students struggle in tapping such a resource.

These instructions explain how to use that outline and the LASAD system to diagram your own argument on the merits in favor of whichever of the two parties, the U.S. Government or Alvarez, for whom you have been assigned to write a brief.

The LASAD system is an on-line tool designed to help students prepare argument diagrams in order to plan their briefs and other argumentative writing. This document introduces the basics of LASAD for argument diagramming including logging in and creating diagrams.

An argument diagram is a graphical representation of an argument. By creating an argument diagram, students will be able to think about and plan:

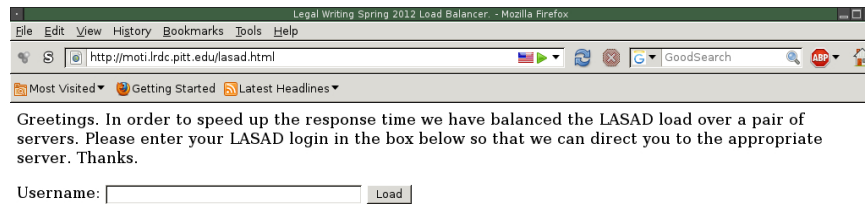
- what legal conclusions and claims they need to support,
- how those conclusions and claims relate to each other,
- what kinds of authorities they will need to cite in support of the conclusions and claims,
- what counterarguments they should consider,
- what reasons they should supply in order to explain and justify how the citations, claims and conclusions support each other and counter the counterarguments, and
- how their written argument should be structured.

First, students need to log in to LASAD using the instructions below (which are the same as the two-page sheet distributed on 1/30.) Then they will learn the basics about using LASAD to construct an argument diagram.

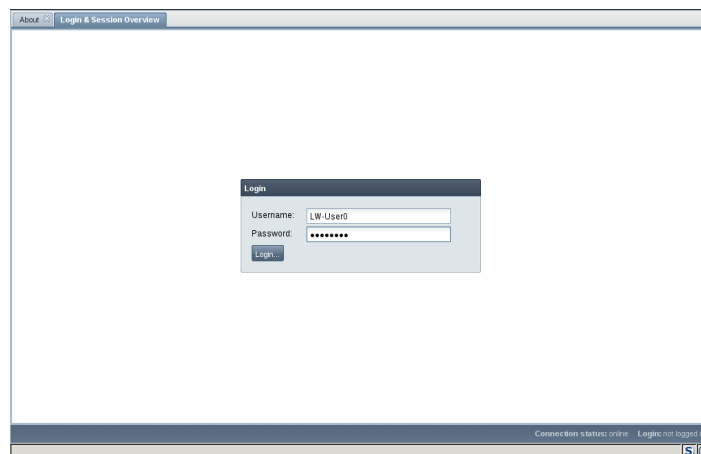
Instructions for Logging into LASAD (same as 1/30/12 instructions):

1. While LASAD runs on any standard browser, it has been tested primarily with Firefox. Information for installing Firefox, which is free for all users, is available at <http://www.mozilla.org/en-US/firefox/fx/>.

2. Open any standard web browser and go to this URL: <http://moti.lrdc.pitt.edu/lasad.html>
 You will see a webpage prompting you to enter your LASAD username as shown below.
 Your LASAD username is your Pitt login.

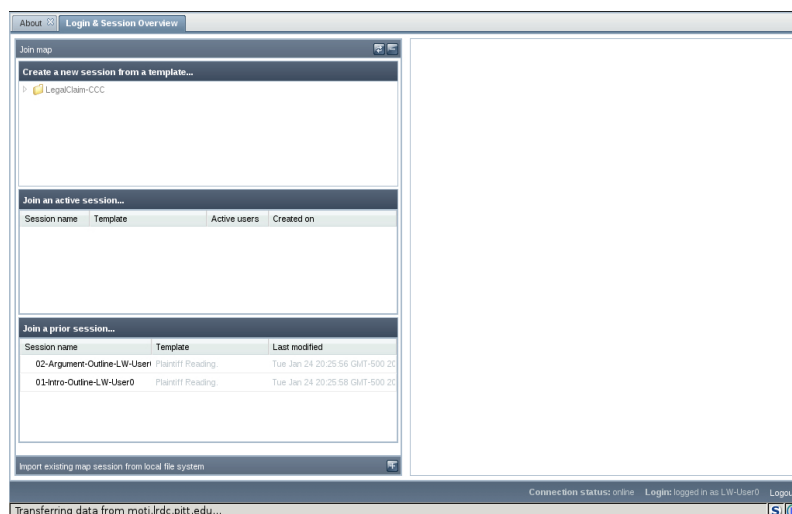


3. Once you enter your login you will be redirected to one of two servers running LASAD. Click on the link provided and you will see a LASAD startup screen. From there you should click on the "Login & Session Overview" tab to get to the login screen shown below:

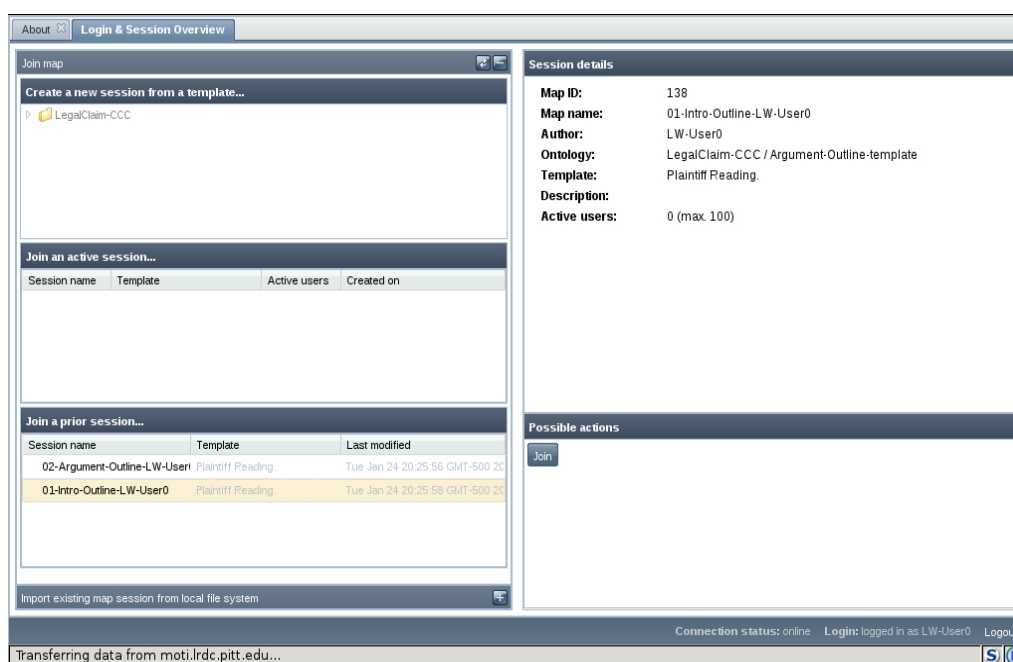


4. Re-enter your user-name and password into the browser as shown above, and hit return to login. If you enter incorrect login information a message will pop up in the lower right corner of the screen informing you of the error.

5. Once you login to LASAD you will see the following browser panel:



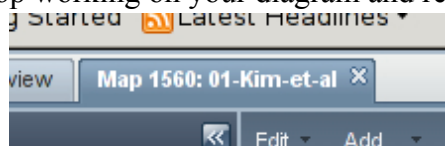
For the purposes of this class, focus on the "Join a prior session..." panel at the bottom left-hand corner of the screen (i.e., do NOT opt to "Join an active session..." or "Create a new session from a template...") You will see a short list of "sessions". In LASAD, a "session" is for developing an argument diagram, also referred to as an "argument map" or "map". There will be two argument diagrams listed *01-Intro-Sample-Diagram* and *02-My-Argument-Diagram*.



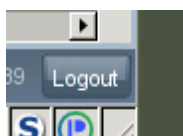
6. Pick *01-Intro-Sample-Diagram* by clicking on it. Picking an argument diagram will cause the "map" details to appear on the right-hand side of the window with a "Join" button at the bottom as shown above.

7. Click the "Join" button. After a brief period of loading, a new "map" window will open in which to construct an argument diagram. We will explain how to do this on Feb. 1. You will use diagram *01-Intro-Sample-Diagram* for the introductory exercise on Feb. 1 and *02-My-Argument-Diagram* to prepare your argument in the *Alvarez* case.

8. (For closing LASAD at the end of your session.) Before discussing how to make an argument diagram for the *Alvarez* assignment, let's complete the discussion of LASAD basics by explaining what to do when you are finished working on your argument diagram. When you are done working with a diagram you can close it by clicking on the [x] at the top of the "map" tab as shown below. This will bring up a popup asking you if you wish to close the "map" (i.e., the argument diagram). Clicking "yes" will close it. Your work is saved automatically to the server as you work and can be reloaded by following the same initial loading steps. Thus, you can stop working on your diagram and resume again later.



In order to close the system clock the [Logout] button located on the bottom right-hand corner of the window as shown below.



Authoring Diagrams:

In the next couple of weeks, you will be using argument diagramming to plan your own argument on the merits for your brief. For diagramming your argument for the brief, you will join the session named *02-My-Argument-Diagram*. You will then be presented with a blank session screen into which you will insert diagram elements (e.g., boxes and arrows) to represent your argument.

In order to learn how to construct an argument diagram, let's focus on the sample argument diagram shown below. It represents a small portion of the majority's argument in the 9th Circuit opinion of *U.S. v. Alvarez*. It will serve to illustrate various points below. For this initial introductory exercise, you should use diagram *01-Intro-Sample-Diagram* (which you joined in step 7).

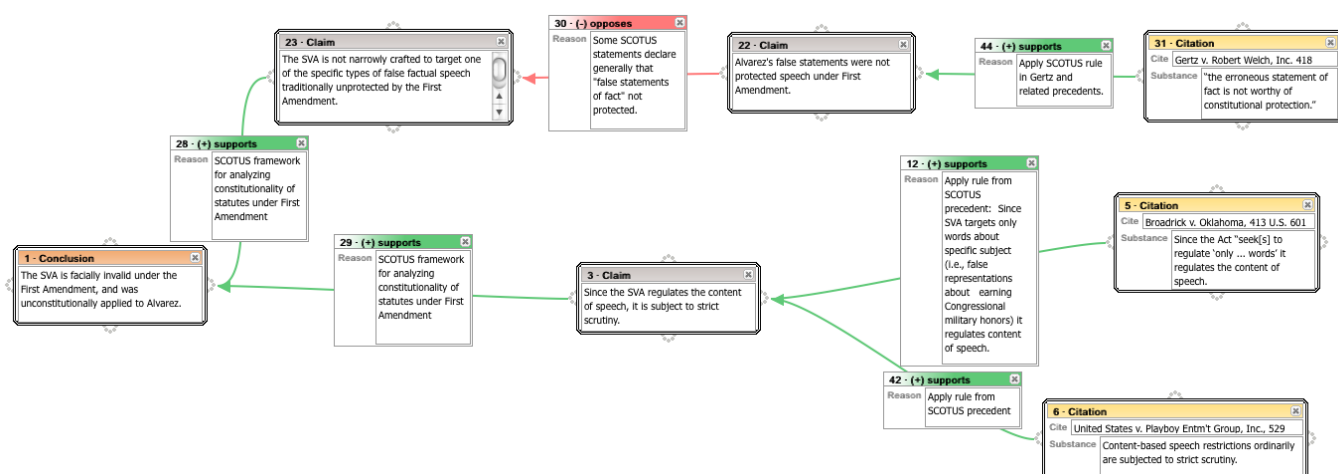
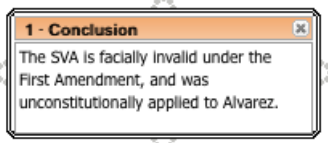


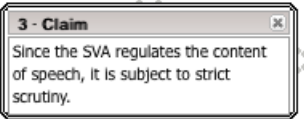
Diagram Elements.

Argument diagrams are graphical representations of arguments. For your class assignment, LASAD provides the following set of elements to construct the diagrams. These elements focus attention on key parts of persuasive legal arguments. There are three types of boxes or nodes. The examples shown at the right come from the sample argument diagram above:

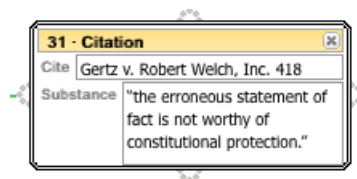
Conclusions: Conclusion nodes are used to represent legal conclusions asserted by the author in the argument.



Claims: Claim nodes represent assertions made by the author in support of (or opposing) a legal conclusion or another claim.

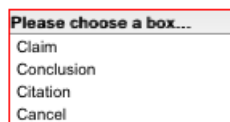


Citations: Citation nodes represent legal authorities cited in support of (or opposing) claims and legal conclusions. These are references to legal cases or statutes.



A Citation node has two fields: “Cite” and a “Substance” field. The Cite field is where you can record the statute section or case cite. The Substance field is for recording the substance of the citation that is relevant at this point in the argument, for instance, a quotation from the statute or case opinion or a succinct paraphrase.

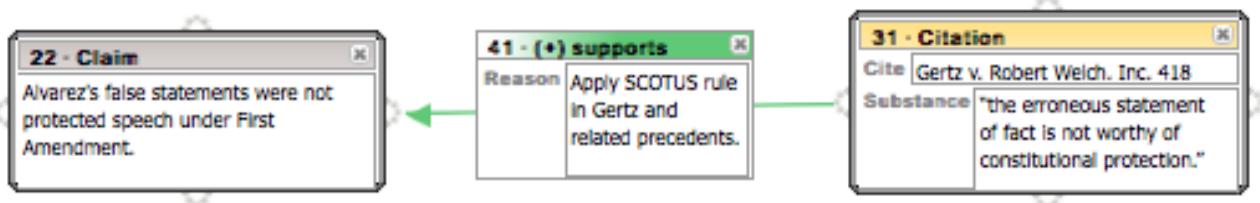
Nodes can be added to the diagram workspace by right-clicking on the diagram workspace to generate a new node, or by using a two-finger click for Macintosh trackpads. This brings up the “choose a box” menu as shown at right with which you can select the kind of node to add.



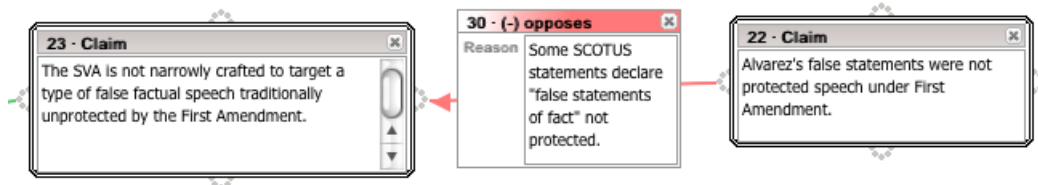
Key features of argument diagrams are the arcs (i.e., arrows) that connect the nodes. The arcs indicate relations of support (or opposition) between nodes: What claim supports (or opposes) what conclusion or other claim? What citation supports (or opposes) what conclusion or claim? The arcs not only indicate supporting (or opposing) relations, they are also used to record, in text boxes connected to the arcs, the *reasons* underlying or justifying the support (or opposition).

Once nodes have been created in the workspace, you can draw arcs (i.e., arrows) between them. LASAD has three types of arcs:

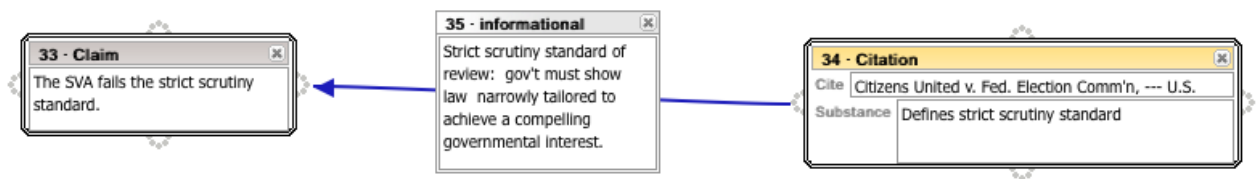
(+) *Supports:* indicate a supportive relationship with one node (the tail node) supporting the pointed-to node.



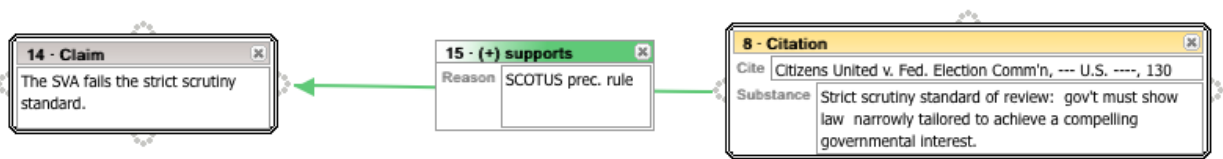
(-) *Opposes*: indicate an opposing relationship with the tail node opposing the pointed-to node.



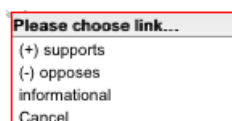
() *Informational*: represent a factual or topical relationship between two nodes that is neither supporting or opposing but contains some relevant information. The example below uses the Informational arc to set out the strict scrutiny standard defined in the cited case.



An alternative way to set out a standard is shown below. Instead of an Informational arc, it uses a Supports arc.



Drawing Arcs: in order to draw an arc between two nodes you should click on one of the four anchor nubs located on the sides of your designated tail node. Then, holding down the mouse you can drag the resulting line until it touches an anchor nub of your target node. Once that is done you will be presented with an arc-type menu (below) similar to the "choose a box" menu. Select the type of arc you want to use.



You can reverse the direction of an arc with the reversal button located on the title-bar of the

arc box. This button will appear when the mouse hovers over the title-bar of the arc. The button is shown below:



The “Supports” and “Opposes” arcs each have a field marked “Reasons” where you should specify the reasons underlying or justifying the support (or opposition). As explained below, these Reasons are an important component of your argument and will be useful in preparing your written argument from the argument diagrams.

Notice that each diagram element (i.e., node or arc) added to the diagram has a number in the upper left. These numbers simply indicate the order in which the nodes and arcs were added to the diagram.

Deleting contributions: All items in the space can be removed by clicking on the [x] button located in the upper-right hand corner of each node or arc title pane.

Copying nodes or arcs: While one can copy the text inside a node, arc, or field, one cannot copy the nodes or arcs themselves.

Planning Your Argument for the Alvarez Assignment

Assuming that your argument for the *Alvarez* assignment will be based on the arguments of the majority and the dissent in the 9th Circuit opinion, your outline of those arguments can help you construct a diagram your own argument. You can cut-and-paste text from the Word file of your 9th Circuit argument outline directly into the text boxes of the nodes and arcs in your diagram. Of course, since an advocate’s argument to the Supreme Court on appeal from the circuit court opinion will be different in a variety of ways from the arguments of circuit court judges, you should carefully edit the text that you cut-and-paste. USE CAUTION here. If you cut-and-pasted the court's language, make sure to enclose the language within quotation marks and include a cite with the page upon which this quote appears. Or if you paraphrased the language, be sure to include the cite to the original source. This will help to ensure that when you use your argument diagram to construct your written argument that you will avoid plagiarism or failure to adequately cite sources.

Use a “divide and conquer” strategy. Think about the main legal conclusion(s) of the side you represent and add it to the diagram. Then consider the claims that go into convincing the Court that the legal conclusion is true and add them to the diagram, linked to the main conclusion(s) with “Supporting Reasons” arcs. Similarly, those claims may be supported by additional component claims; add them to the diagram.

At various points in the diagram, conclusions and claims will ultimately need to be supported with legal authorities. Add Citation nodes to the diagram to record the relevant authorities. These authorities may have already been cited in the 9th Circuit opinion, you may have included them in your outline of that opinion, or you may need to undertake new legal research to find relevant authorities. Usually, each “branch” of the argument ends with a Citation node. Sometimes, you may realize that a branch of your argument needs an authority

but you have not yet found one. In these cases, it is still useful to add a Citation node as a placeholder and to specify, perhaps ALL IN CAPS, a detailed description of the kind of authority you need. You will discover that the preceding nodes in the branch will help you to specify the kind of authority you need to find.

One can include more than one cited case in a single Citation node. This is useful if the multiple cases cited all stand for the same proposition (e.g., a rule or holding) that is relevant to your argument at that point. Since a single case may be cited for multiple propositions, you may find that more than one Citation node in your diagram refers to the same case. Presumably, in these circumstances, the Cite fields will contain related citations with, perhaps, different page numbers, and the Substance fields will contain different propositions for which the case stands.

One of the key advantages of creating an argument diagram involves the “Supports” and “Opposes” arcs. As links among citations, claims, or conclusions, these arcs invite you to think about and make explicit the reasons why the information in the one node supports the content of the other node. These reasons will be an important part of your brief’s textual argument; write them in the Reasons field. Thinking about these reasons and writing them down is one way that you can add your own creative contribution to the material you adapt from the 9th Circuit opinion.

In writing your brief, you will want to consider possible counterarguments to some of your conclusions or claims. Since it includes both majority and dissenting opinions, the 9th Circuit opinion includes many arguments and counterarguments. Indeed, the majority recites and responds to various of the dissent’s counterarguments in the majority opinion, and similarly for the dissent. Since your briefs are not “reply” briefs, your brief is supposed to present your client’s argument, not, in general, to anticipate your opponent’s arguments. Nevertheless, if a counterargument is sufficiently important that it is likely the court would expect you to have addressed it in your brief, you should do so. (You should include telling counterarguments in your diagram even though you may ultimately decide not to include them in your brief.)

Use a Conclusion or Claim node to include a counterargument in the diagram, and link it into the argument it counters with an “Opposes” arc. In some circumstances, the “counterargument” may be a citation that contradicts a conclusion or claim; you should use a Citation node and link it to the contradicted node with an “Opposes” arc. In either situation, be sure to explain the reasons why the counterargument or contradictory citation opposes your argument in the arc’s Reasons field.

In general, it is probably easiest first to fill out a branch representing an argument in favor of your client, and then to consider counterarguments to the conclusions or claims in that branch and add them to the diagram. As you identify counterarguments, it is natural to think about how to justify to the Court that it should NOT treat the counterarguments as dispositive. That is, you will need to counter the counterargument by coming up with reasons why the Court should agree with your position rather than with the counterargument. A good way to record these reasons in your diagram is to insert a Claim node between the counterargument and the Claim or Conclusion it opposes (the “Opposed Node”). The counterargument’s Opposes arc should point to the new Claim; the text of the new Claim node might be: “The counterargument that ... should be rejected.” Add a Supports arc from the new Claim node to

the Opposed Node and insert the reasons why the Court should agree with your position rather than the counterargument in the Reasons field of the Supports arc.

Using Your Argument Diagram to Help Write Your Brief

If you have done a careful job of diagramming your argument, you have already done much of the hard thinking necessary to write your brief. Your argument diagram represents all or most of the conclusions, claims, citations and supporting reasons, counterarguments and counters, that you will need to incorporate into your textual argument on the merits on behalf of your client.

Consider, for instance, the useful format for proving a conclusion of law recommended in Richard K. Neumann, *LEGAL REASONING AND LEGAL WRITING: STRUCTURE, STRATEGY AND STYLE*, (5th Ed.):

1. State your *conclusion*
2. State the primary rule that *supports* the *conclusion*.
3. Prove and explain the rule through *citation* to authority, description of how the authority stands for the rule, discussion of subsidiary rules, analyses of policy, and *counter-analyses*.
4. Apply the rule's elements to the facts with the aid of subsidiary rules, *supporting authority*, policy considerations, and *counter-analyses*; and
5. If steps 1 through 4 are complicated, sum up by restating your *conclusion*.
(emphasis added)

As the italicized words suggest, your argument diagram already contains much of the information you need to instantiate this format, for the main legal conclusions and the subsidiary claims.

Basically, you can begin with the Conclusion nodes and work your way along each branch, translating it into text. That is, state the contents of a Conclusion node in a paragraph. Then select a Claim node that relates to the Conclusion and state its contents in a paragraph. If there are any Citation nodes at the end of the branch, add them to the paragraph. Use the contents of the Support arcs' Reasons field to explain the how the citations support the claim, and how the claim supports the conclusion.

You should repeat this process in turn for each claim related to the conclusion and for any other conclusions. While this will not yield a polished argument, it will place everything contained in the argument diagram into a text that you can edit into a strong argument.

Here are three things to remember as you translate your argument diagram into a written argument:

1. Much of the text is already there in the text boxes of the nodes and arcs; feel free to cut-and-paste it into your brief and edit it into a written argument. But again, USE CAUTION here. If you cut-and-pasted the 9th Circuit's language, make sure to enclose the language within quotation marks and include a cite with the page upon which this quote appears. Or if you paraphrased the 9th Circuit's language, be sure to include the cite to the original source. This will help to ensure that, in constructing your written argument, you will avoid plagiarism

or failure to adequately cite sources.


2. One decision you will need to make is the order in which you address the various conclusions, claims, citations, and reasons. The diagram branches suggest a “local” ordering, but you still must decide the order in which to address the main conclusions and claims and their components.

3. As you use your diagram to help structure your argument, bear in mind that in general, the numbers of the diagram elements (i.e., nodes and arcs) in the diagrams do *not* correspond to the order in which the contents of those nodes’ and arcs’ text boxes should appear in your brief. The diagram element numbers simply indicate the order in which the nodes and arcs were added to the diagram. Similarly the relative position vertically and horizontally of disconnected diagram elements may not have any significance for where their content should appear in your brief.

System Information.

LASAD is an entirely web-driven application and, as such, stores your work on a web server. You will not need to extract or print-out your diagrams for the course. Whenever you want to access your diagram, simply login using the user-name and password provided to retrieve it.

LASAD is written in JavaScript and thus is intended to be cross-platform compatible (that is, it is supposed to work and appear the same on any browser). However prior students have reported that the system is slower when being accessed through Internet Explorer. As noted, we thus strongly encourage you to use Firefox as your browser for accessing LASAD. (Information for installing Firefox, which is free for all users, is available at <http://www.mozilla.org/en-US/firefox/fx/>)

Some users have reported that, when a node is deleted the "System Resources" panel will expand into the field of view. This panel does not serve a purpose in the present system and thus can be ignored. It can be collapsed by clicking on the collapse  button:

While using LASAD, if you happen to close the browser window before logging out of LASAD, or if by chance the system should “kick you off the system” (we don’t expect it will, but it can happen), you will need to wait 5 minutes before logging back into LASAD.

For further information regarding LASAD or with technical questions you can contact you can contact Collin via e-mail (collinl@pitt.edu) or contact Mohammad (falakmasir@cs.pitt.edu) who will be available in the law school as per a schedule to be posted. For questions regarding the assignment or the legal issues you should contact Prof. Sinsheimer or Prof. Ashley (ashley@pitt.edu).