

Legal Research Refresher

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One-Day Civil Law Seminar

October 12, 2026



UNC
SCHOOL OF GOVERNMENT

www.sog.unc.edu

Session Goals

1. Understand how to analyze research presented to you by **lawyers** or **unrepresented parties**.
2. Learn how to do **your** own research, *when necessary*.

Remember

Lawyers have a job— to advocate for their client and persuade the court.



NC State Bar

The North Carolina State Bar was created as the government agency responsible for the regulation of the legal profession in North Carolina.

The key regulatory responsibility of the State Bar is the investigation and prosecution of lawyers who violate the State Bar's code of ethics for lawyers.

Candor to the Court

Rule 3.3(a), NC Rules of Prof. Conduct

-- Lawyer shall not ***knowingly***:

1. Make false statements (*material fact or law*) or fail to correct false statements
2. Fail to disclose legal authority in the controlling jurisdiction known to the lawyer to be directly adverse and not disclosed by opposing counsel
3. Offer evidence the lawyer knows is false



- “This case is on point.”

OR

- “This case is distinguishable.”

Case Problem

Louie Landlord files an action for summary ejectment against Tammy Tenant. At the top of the complaint form, he checked the box indicating that the parties have a written lease. In box #3, LL checks the first box indicating T failed to pay rent and LL made demanded and waited 10 days before filing.

AOC-CVM-201

COMPLAINT IN SUMMARY EJECTMENT	STATE OF NORTH CAROLINA	
	_____ County	
	In The General Court Of Justice District Court Division - Small Claims	
	Spoken Language Court Interpreter Needed For Any Party, Victim, Or Witness? (If Yes, identify person(s) and language(s). Interpreters provided for all court proceedings at no cost.) ☐ No ☐ Yes: (explain)	
	1. The defendant is a resident of the county named above. 2. The defendant entered into possession of premises described below as a lessee of plaintiff.	
G.S. 7A-216, 7A-232; Ch. 42, Arts. 3 and 7	Description Of Premises (include location and address)	
	☐ Conventional ☐ Public Housing ☐ Section 8	
	Rate Of Rent (Tenant's Share) ☐ Month ☐ Week per	Date Lease Ended
Name And Address Of Plaintiff	3. ☐ The defendant failed to pay the rent due on the above date and the plaintiff made a 10-day grace period before filing the complaint.	
County	☐ The lease period ended on the above date and the defendant is holding over after the end of the lease period.	
Telephone No.	☐ The defendant breached the condition of the lease described below for which re-entry is specified.	
	☐ Criminal activity or other activity has occurred in violation of G.S. 42-63 as specified below.	

GS 42-3

GS 42-26(a)(1)

GS 42-26(a)(2)

GS 42-63

Statutory Authority on the Complaint

The complaint cites

- GS 42-3
- GS 42-26(a)
- GS 42-26(b)
- GS 42-63

as potential bases for summary ejection.

www.ncleg.gov



NORTH CAROLINA GENERAL ASSEMBLY

HOUSE SENATE AUDIO CALENDARS COMMITTEES GOV OPS **BILLS & LAWS** DIVISIONS REDISTRICTING ABOUT

Bill # (Ex: H1 or S1) 2025-2026 Session

NEWS & INFORMATION

- 2025 Budget >
- 2025 Crossover List
- House Chamber Video Archives Now Available on YouTube
- Livestream of the NC Education Complex Construction Site (Updated Stream)
- Gov Ops Subcommittee on Hurricane Response and Recovery
- Virtual Tour of the Legislative Building

News Archive



HOUSE

Convenes Mon, 6/9/25 at 1:00 p.m.

- Calendar
- Chamber Dashboard
- Video Audio
- Bills with House action by day
- House bills filed by day



SENATE

Convenes Mon, 6/9/25 at 3:00 p.m.

- Calendar
- Chamber Dashboard
- Bills with Senate action by day
- Senate bills filed by day

CHAPTER 42 – LANDLORD AND TENANT.

The General Statutes include changes through **SL 2024-58**.

General Statutes published on this website are not official. Please read the [caveats](#) for more information.

Search >

		G.S. 42-45.2	§ 42-45.2. Early termination of rental agreement by tenants residing in certain foreclosed property.
		G.S. 42-46	§ 42-46. Authorized fees, costs, and expenses.
		G.S. 42-47 through	§§ 42-47 through 42-49: Reserved for future codification purposes.

Modified by:
SL 2024-47 (H556)

Chapter 42 ✓

 Chapter HTML  Chapter PDF

  Article 1 - General Provisions.

  G.S. 42-1 § 42-1. Lessor and lessee not partners.

  G.S. 42-2 § 42-2. Attornment unnecessary on conveyance of reversions, etc.

G.S. 42-3

§ 42-3. Term forfeited for nonpayment of rent.

In all verbal or written leases of real property of any kind in which is fixed a definite time for the payment of the rent reserved therein, there shall be implied a forfeiture of the term upon failure to pay the rent within 10 days after a demand is made by the lessor or his agent on said lessee for all past-due rent, and the lessor may forthwith enter and dispossess the tenant without having declared such forfeiture or reserved the right of reentry in the lease. (1919, c. 34; C.S., s. 2343; 2001-502, s. 2; 2004-143, s. 1.)

G.S. 42-26

§ 42-26. Tenant holding over may be dispossessed in certain cases.

(a) Any tenant or lessee of any house or land, and the assigns under the tenant or legal representatives of such tenant or lessee, who holds over and continues in the possession of the demised premises, or any part thereof, without the permission of the landlord, and after demand made for its surrender, may be removed from such premises in the manner hereinafter prescribed in any of the following cases:

- ➡ (1) When a tenant in possession of real estate holds over after his term has expired.
- ➡ (2) When the tenant or lessee, or other person under him, has done or omitted any act by which, according to the stipulations of the lease, his estate has ceased.

■ ■ ■

(c) In an action for ejectment based upon G.S. 42-26(a)(2), the lease may provide that the landlord's acceptance of partial rent or partial housing subsidy payment does not waive the tenant's breach for which the right of reentry was reserved, and the landlord's exercise of such a provision does not constitute a violation of Chapter 75 of the General Statutes. (4 Geo. II, c. 28; 1868-9, c. 156, s. 19; Code, ss. 1766, 1777; 1905, cc. 297, 299, 820; Rev., s. 2001; C.S., s. 2365; 2001-502, s. 3; 2004-143, s. 2; 2011-252, s. 1; 2012-17, s. 3.)

G.S. 42-63

§ 42-63. Remedies and judicial orders.

(a) **Grounds for Complete Eviction.** – Subject to the provisions of G.S. 42-64 and pursuant to G.S. 42-68, the court shall order the immediate eviction of a tenant and all other residents of the tenant's individual unit where it finds that:

- (1) Criminal activity has occurred on or within the individual rental unit leased to the tenant; or
- (2) The individual rental unit leased to the tenant was used in any way in furtherance of or to promote criminal activity; or
- (3) The tenant, any member of the tenant's household, or any guest has engaged in criminal activity on or in the immediate vicinity of any portion of the entire premises; or
- (4) The tenant has given permission to or invited a person to return or reenter any portion of the entire premises, knowing that the person has been removed and barred from the entire premises pursuant to this Article or the reasonable rules and regulations of a publicly assisted landlord; or
- (5) The tenant has failed to notify law enforcement or the landlord immediately upon learning that a person who has been removed and barred from the tenant's individual rental unit pursuant to this Article has returned to or reentered the tenant's individual rental unit.

Elements of G.S. 42-3

1. Landlord-tenant relationship
2. Terms of lease related to amount of rent and when it is due
3. Tenant breached the lease by failing to pay rent when it was due
4. LL made a clear and unequivocal demand after the rent was due that tenant pay all past-due rent
5. LL waited at least 10 days after demand to file action
6. T has not yet paid the full amount owed



Elements of G.S. 42-26(a)(2)

1. Landlord-tenant relationship
2. Lease contains a forfeiture clause
3. T breached lease condition for which forfeiture is specified
4. LL followed procedure set out in lease for declaring a forfeiture and terminating tenant's right to possession



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Landlord's Testimony

Louie Landlord testified that when Tammy Tenant failed to pay rent on May 1st, he called her up and told her she had 10 days to pay rent or be evicted. When TT had not paid rent by May 15th, LL filed for summary ejectment and the rent owed.

Tenant's Testimony

Tammy Tenant testified that her hours were cut at work, and when she let LL know that her rent would be late, he said he didn't want it. When she looked at her lease, she saw a provision that said he couldn't terminate the lease unless she was late two times, and he had given her written notice. This is the first time she has ever been late, and she never received written notice.

The Lease

After hearing Tammy's testimony, you ask Louie for a copy of the lease. He has a copy of the lease that Tammy signed and hands it up to you. In the lease there is a provision that says Louie has the right to reenter if Tammy is late paying the rent two times. The provision further provides that Louie will give Tammy written notice of the default and will file for summary ejectment after the second time.

Practical Reality....

What's Necessary + Magistrate's Role



Annotated Statutes

§ 42-3. Term forfeited for nonpayment of rent.

In all verbal or written leases of real property of any kind in which is fixed a definite time for the payment of the rent reserved therein, there shall be implied a forfeiture of the term upon failure to pay the rent within 10 days after a demand is made by the lessor or his agent on said lessee for all past-due rent, and the lessor may forthwith enter and dispossess the tenant without having declared such forfeiture or reserved the right of reentry in the lease.

History.

1919, c. 34; C.S., s. 2343; 2001-502, s. 2; 2004-143, s. 1.

Legal Periodicals.

For article on defending the low-income tenant in North Carolina, see 2 N.C. Cent. L.J. 21 (1970).

For a comment on landlords' eviction remedies in the light of *Spinks v. Taylor*, 303 N.C.

256, 278 S.E.2d 501 (1981), and the 1981 Act to Clarify Landlord Eviction Remedies in Residential Tenancies, see 60 N.C.L. Rev. 885 (1982).

For a comment on the Landlord Eviction Remedies Act in light of *Spinks v. Taylor*, 303 N.C. 256, 278 S.E.2d 501 (1981), see 18 Wake Forest L. Rev. 25 (1982).

For survey of 1982 law of property, see 61 N.C.L. Rev. 1171 (1983).

CASE NOTES

Purpose of Section. — This section was passed to protect landlords who made verbal or written leases and omitted in their contracts to make provision for reentry on nonpayment of rent when due. The consequence was that often an insolvent lessee would avoid payment of rent, refuse to vacate and stay on until his term expired. *Ryan v. Reynolds*, 190 N.C. 563, 130 S.E. 156, 1925 N.C. LEXIS 123 (1925).

Section Construed with G.S. 42-33. — This section and G.S. 42-33 are in pari materia, and should be construed together. *Ryan v. Reynolds*, 190 N.C. 563, 130 S.E. 156, 1925 N.C. LEXIS 123 (1925).

G.S. 42-33 construed in pari materia

Provision Written into Lease. — This section writes into a contract of a lease of lands, when the lease is silent thereon, a forfeiture of the terms of the lease upon failure of the lessee to pay the rent within 10 days after a demand is made by the lessor or his agent for all past due rent, with right of the lessor to enter and dispossess the lessee. *Ryan v. Reynolds*, 190 N.C. 563, 130 S.E. 156, 1925 N.C. LEXIS 123 (1925).

Statutory forfeitures under this section are not implied where the lease itself provides for termination upon nonpayment of rent. *Stanley v. Harvey*, 90 N.C. App. 535, 369 S.E.2d 382, 1988 N.C. App. LEXIS 613 (1988).

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On the Civil Side

Small Claims Magistrates: Don't Make These Mistakes in Summary Ejectment Cases!



This entry was contributed by Dona Lewandowski on February 6, 2019 at 6:37 pm and is filed under Small Claims Law.

After teaching and advising magistrates about landlord-tenant law for a little more than a decade, I've become familiar with their most common errors – which have, somewhat discouragingly, remained pretty much the same throughout that time. All of these errors arise from neglecting to independently analyze the requirements and defenses of each of the four grounds for eviction. Those grounds are briefly summarized below, followed by a list of errors most often made when magistrates confuse them. If you are such a magistrate, please consider having this blog post tattooed

NOTE: Grounds #1 and #2 are mutually exclusive. The lease either has or does not have a

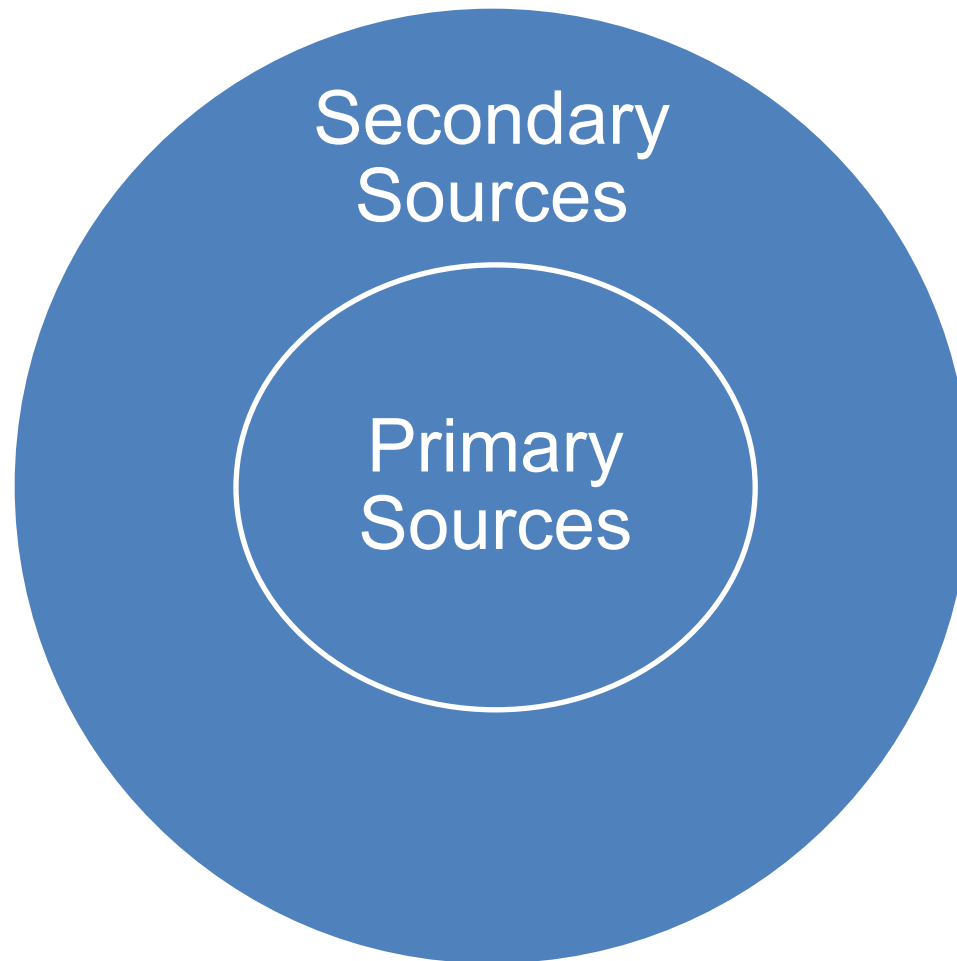
NOTE: Grounds #1 and #2 are mutually exclusive. The lease either has or does not have a forfeiture clause triggered by failure to pay rent. If it does, Ground #1 applies. If it does not, Ground #2 applies. Stanley v. Harvey, 90 NC App 535 (1988). A landlord with a forfeiture clause in the lease does not have the option of pretending otherwise and winning summary ejectment by satisfying the requirements of Ground #2.

What if there wasn't a case...

If the NC Court of Appeals had not yet decided the issue, who decides?

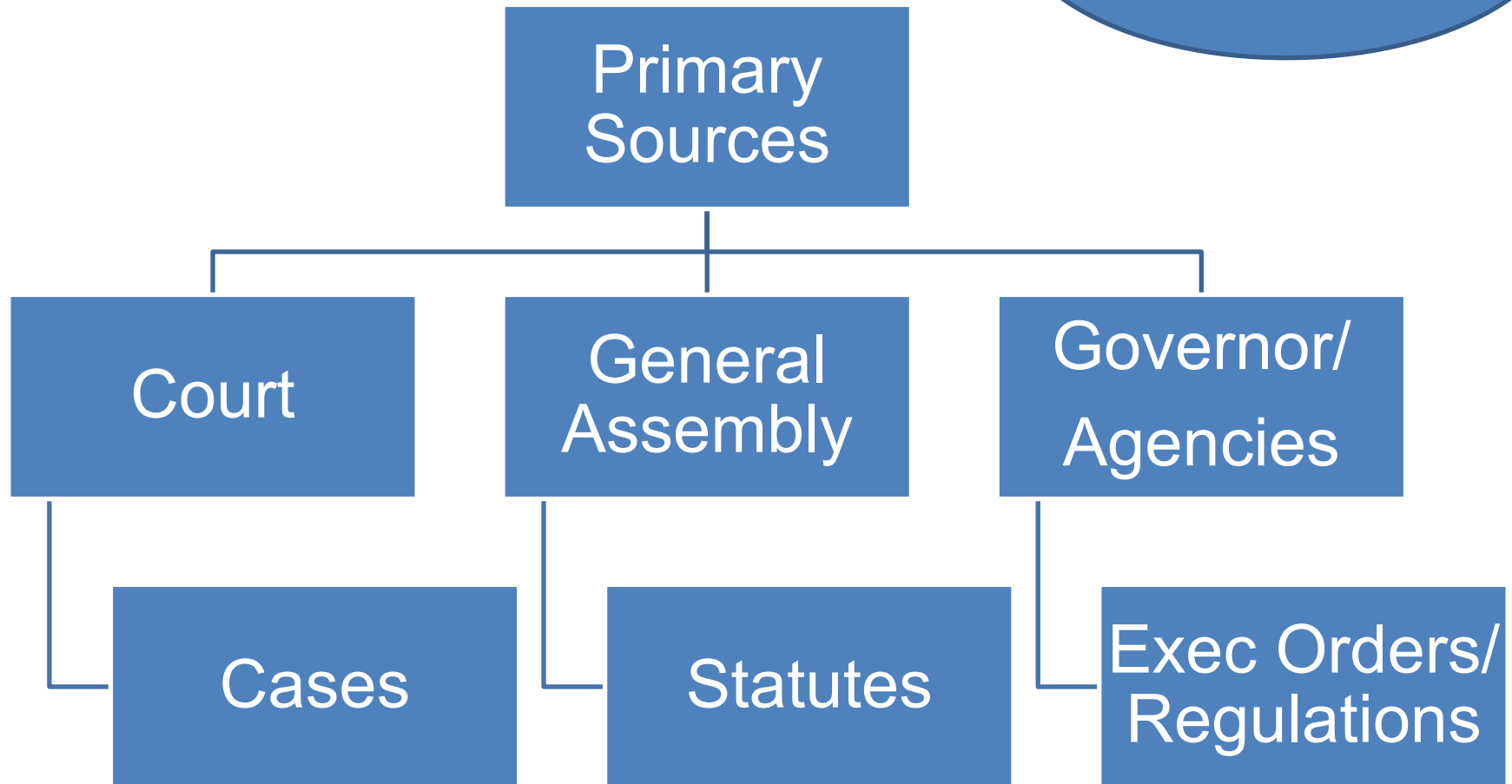


Sources of Law



Primary Sources

Federal and
State
Constitutions



Secondary Sources

- Treatises
- Law Review articles
- SOG publications
 - NC Small Claims Law
 - On the Civil Side blogs
- AOC advisory memos
- AOC Forms

What controls your decision?

Mandatory Authority: What the court must follow – PRIMARY sources of law in NC

Issues of state law:

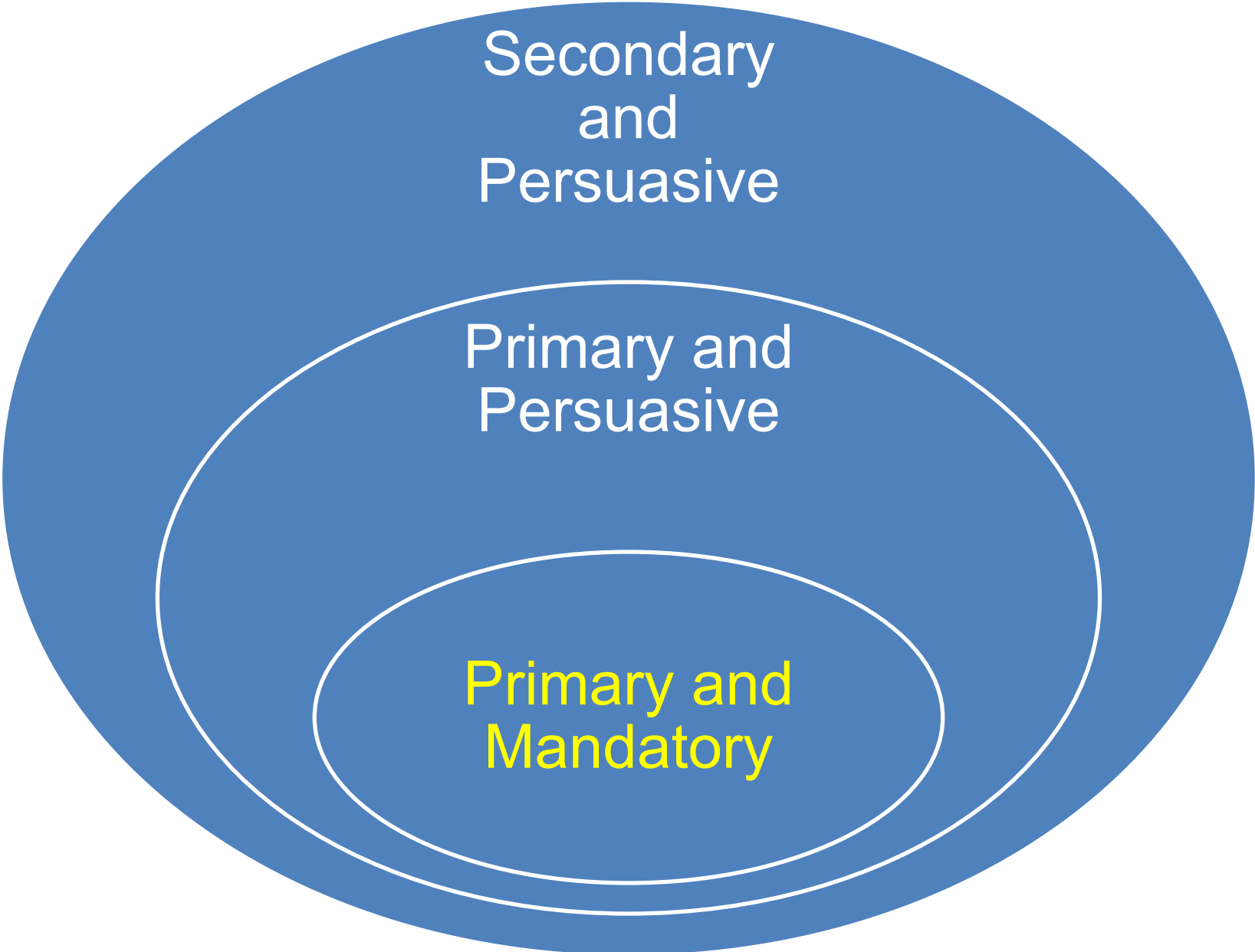
- NC Constitution
- NC Supreme Court + NC Court of Appeals
Opinions
- NC Statutes
- NC Regulations and Executive Orders

What helps your decision

Persuasive Authority: What the court may follow – primary and secondary sources

Issues of state law:

- Decisions of other state courts
 - i.e., Virginia case on summary ejectment
- Federal decisions on state law issues
- Scholarly publications, SOG publications
 - Law review article
 - On the Civil Side blog post



Secondary
and
Persuasive

Primary and
Persuasive

Primary and
Mandatory

Magistrate's World

1. Statutes – General Assembly

- www.ncleg.net
- Green Books (**annotations**)

2. Cases – NC Court of Appeals + NC Supreme Court

- Published vs. unpublished
- www.nccourts.org
- LexisNexis – contact AOC

Published vs. Unpublished

Both COA and Supreme Court

- **Published:** precedential value; control future cases – *stare decisis*
- **Unpublished:** not binding as precedent; just decide that case

Stare Decisis

"to stand by that which is decided."



How to Read a Case

Stanley v. Harvey

1. Caption/Citation
2. Procedural History
3. Facts
4. Issue
5. Holding
6. Analysis
7. Judgment
8. Dissent/Concurrence, if any

Caption + Citation

Stanley v. Harvey, 90 NC App 535 (1988)



1st Party



2nd Party

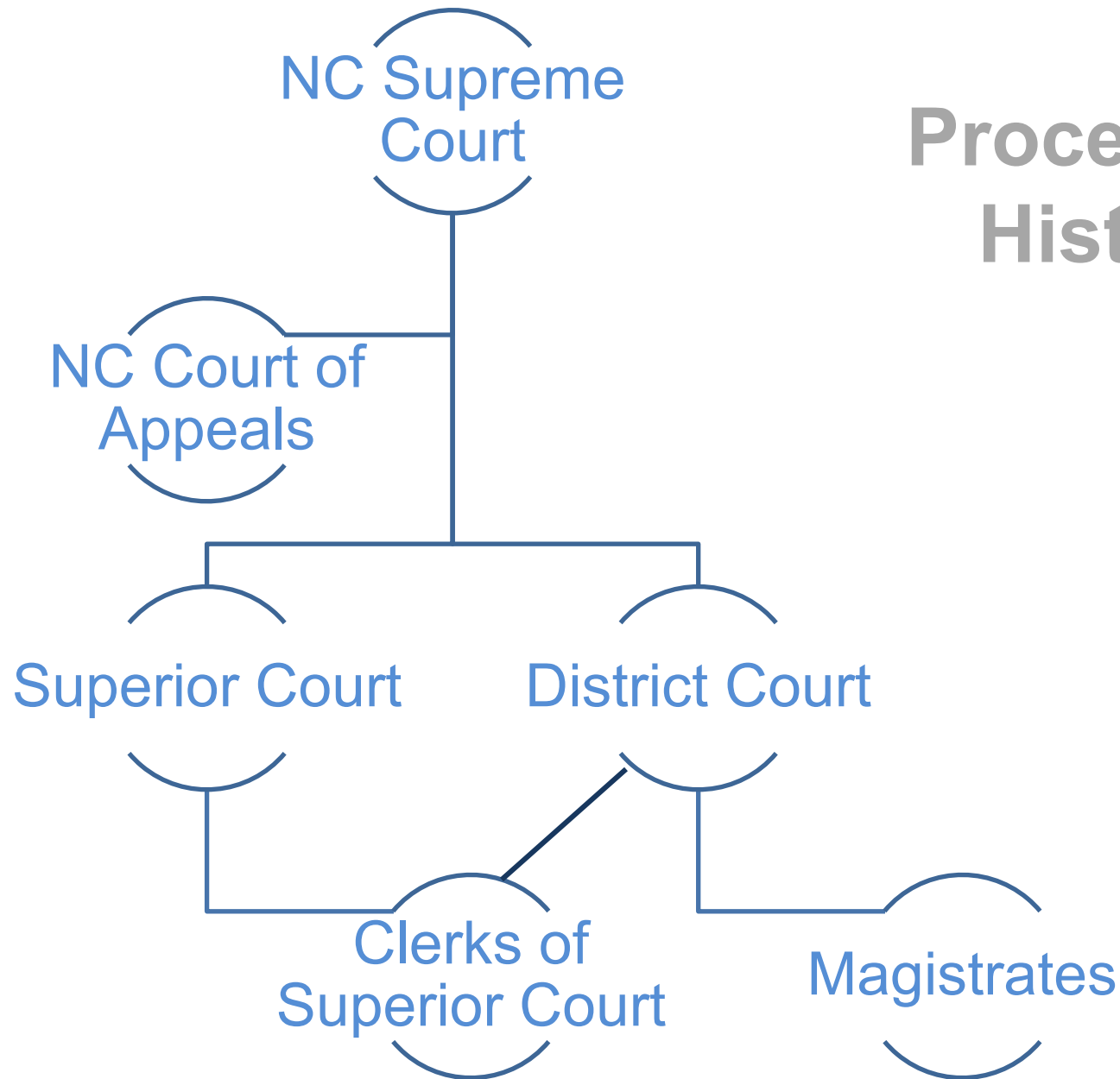


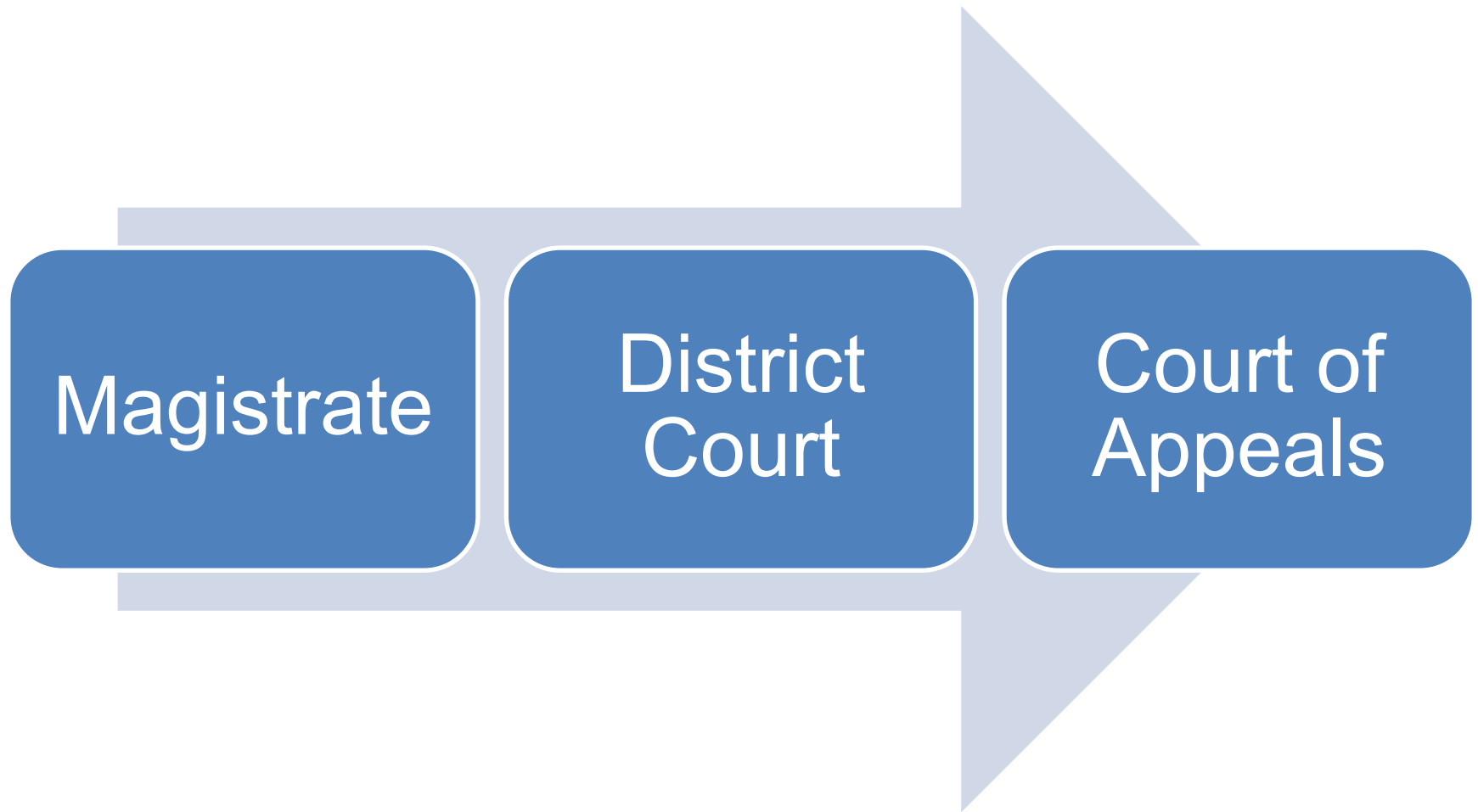
Reporter



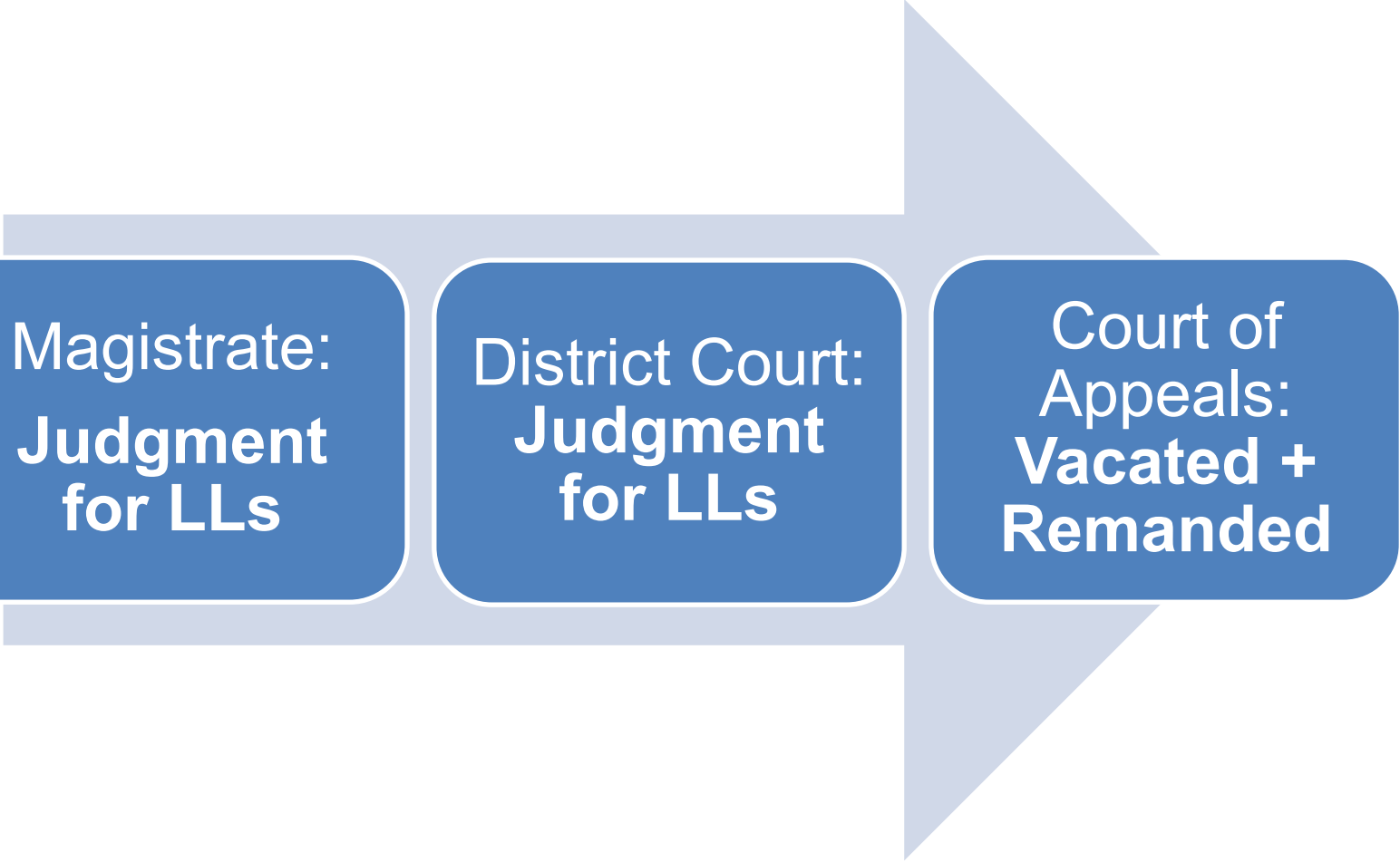
Year
Decided

Procedural History





Stanley: Decision History



Magistrate:
**Judgment
for LLs**

District Court:
**Judgment
for LLs**

Court of
Appeals:
**Vacated +
Remanded**

Statement of the Facts

What happened...

Written Opinion – court may or may not include everything – what was relevant to the decision.

Your Research - may distinguish one case from the next – application of the law.

Stanley v. Harvey

Facts?

- Written lease executed January 25, 1980, ended January 24, 1981, continued month-to-month
- Either party could terminate upon 30 days' notice
- LLs could terminate upon 1 days' notice if T breached
- No unilateral modifications allowed during extension period
- LLs demanded increased rent (\$282.00), but continued to accept contract rent (\$239.00)
- January 12, 1982, LLs notified T of violation for too many occupants, T denied default
- July 16, 1982, LLs notified T in writing of desire to retake possession on July 25, 1982
- T refused to vacate

Issue before Court of Appeals

Whether LL's July 16, 1982, letter terminated T's lease such that T's estate ceased and summary ejectment was allowed.



Court of Appeals Holding

When termination of a lease depends upon notice, the notice must be given in strict compliance with the contract as to both time and contents.

LL's letter was insufficient to terminate T's lease, and no statutory forfeiture would be implied where the lease provides for termination upon non-payment of rent.

Legal Rules at Issue

- 42-26(a)(2) applies
- 42-3 does not apply because lease contains forfeiture clause for nonpayment
- 42-14 does not apply because notice of termination in lease differs from statute, 42-26(a)(1) does not apply
- 42-26(a)(3) does not apply because not an agricultural lease

Applying 42-26(a)(2)

- LLs could only bring SE action if T's estate ceased
- T's lease did not automatically terminate upon T's breach
- LLs required to notify T lease had terminated before taking possession
- LLs' request for T to vacate did not state that LLs terminated the lease
- T's estate had not ceased so no summary ejectment under 42-26(a)(2)

Court of Appeals Analysis

- Matter of statutory interpretation
- Court interpreting language of a statute
 - Plain language when clear
 - If ambiguous, then look to purpose of statute and intent of legislature

Judgment

Vacated
Remanded



Concur / Dissent

Most opinions are **majority** opinions.

Also have:

- **Concurring** – agree with majority but would make decision on different legal rationale
- **Dissenting** – disagree with majority; vote for losing party

At the hearing

Returning to Louie Landlord v. Tammy Tenant, how do you rule?

