



Legal Writing Center

Mastering the Umbrella Paragraph

How A Simple Paragraph Can Help Organize Your Writing

Just like you never want to forget your umbrella on a rainy day, you never want to forget to include an umbrella paragraph in your legal writing!

The Umbrella Paragraph

Umbrella paragraphs, quite simply, are introductory paragraphs in legal writing that help to organize a paper and inform readers about what is to come. Umbrella paragraphs are typically found in the very beginning of the discussion or analysis section. They provide readers with an overview of the law to be applied and a roadmap outlining the specific points to be addressed. Umbrella paragraphs are a crucial legal writing tool because they set forth all issues that will be discussed. Picture a large umbrella. Imagine that this large umbrella is the overall conclusion in a memo or an appellate brief. Underneath the protective cover of that umbrella are issues that are relevant to that conclusion. Before reaching the issues under the umbrella, it is necessary to address the overall conclusion that is the umbrella, right? The same is true in legal writing, and this is done by using umbrella paragraphs.

Umbrella paragraphs typically come into play when there are multiple claims or multiple elements of a rule that must be addressed. Examples of each are discussed below.

Umbrella paragraphs should be clear and concise, a paragraph or two at most. Remember, they are designed to orient the reader and prepare them for what is to come. They are **not** meant for advancing arguments or reciting facts. If done correctly, umbrella paragraphs will organize the discussion or analysis section in a clear and effective way. Thus, a well written umbrella paragraph will not only set the structure for your discussion or analysis section, but it will adequately inform your reader of what is to come in your paper.

How to Write Them

- First, identify the context. What claims and defenses are raised? If only one rule is at issue, what are the factors or elements? Prepare an outline with the claims (or defenses), rules, and elements.
- Then formulate the overall conclusion – the large umbrella!
- State the overall conclusion and the reasoning for the conclusion.
- Set forth the rule of law being applied, listing elements as necessary.
 - Do not define elements at this point. Description of elements is better suited for the body of the discussion.
- Give a roadmap – explain which issues or elements will or will not be discussed and which are relevant to the case at hand.
- Umbrella paragraphs are **always** followed by CREAC! There will always be a separate CREAC for each issue or element discussed.



Examples

I. Rule with Multiple Elements

When dealing with a rule that has more than one factor or element, there will always be an individual conclusion as to each factor or element, in addition to an overall conclusion. Consider this negligence example:

| | |
|--------------------------------|--|
| Overall Conclusion | Olivia will probably be liable to Mark for negligence . |
| Conclusions on Elements | Element 1: Olivia had a duty to Mark. Element 2: Olivia breached that duty. Element 3: Mark suffered damages from Olivia's breach. Element 4: Olivia's breach was the cause in fact of the damages. Element 5: Olivia's breach was the proximate cause of the damages. |

An umbrella paragraph for this example would first state the overall conclusion and the reasoning. Then, it would set forth the rule of law (negligence) and would provide the five elements of the rule. Finally, the umbrella paragraph would include a roadmap. Maybe two of the five elements are not disputed. In that instance, the umbrella paragraph should note that those elements will not be discussed further. Perhaps the umbrella paragraph would highlight one element that is particularly importance. A separate CREAC for each element would then follow the umbrella paragraph.

II. Multiple Claims or Defenses

Often, parties assert multiple claims or defenses in litigation. Although more difficult than the previous context, umbrella paragraphs for multiple claims or defenses are organized just the same as they are for multiple factors or elements! Consider this coram nobis (claim) and laches (defense) example:

| | |
|---|--|
| Overall Conclusion | The client will be granted coram nobis relief because laches does not bar the claim. |
| Conclusions on Claims and Defenses (Separate umbrella paragraphs are needed for the Claim and Defense, because they each have separate elements!) | Claim: The client can prove she is entitled to coram nobis relief. <ol style="list-style-type: none">1. Grounds for challenging the conviction must be of a constitutional, jurisdictional, or fundamental nature2. Client must be facing collateral consequences3. The claim that relief is sought for cannot be waived or litigated4. Client must demonstrate prejudice Defense: The equitable remedy of laches does not bar the coram nobis claim. <ol style="list-style-type: none">1. Must show no unreasonable delay2. Must show no prejudice to the State |

The main umbrella paragraph for this example would first state the overall conclusion as to both the claim and defense, and the reasoning. Then, it would provide a roadmap to inform the reader that one claim and one defense will be discussed. Because the claim and defense in this example have multiple elements, a separate umbrella paragraph for both the claim and defense are necessary. Those umbrella paragraphs should model the example provided above, for multiple issues or elements.



Umbrella Paragraph Outline for the Claim and Defense Context

- Overall Conclusion – roadmap discussing which claim and defense will be discussed
- Claim Umbrella Paragraph – overall conclusion as to the claim, legal rule, and elements. Remember to provide a separate CREAC for each element in the body of the discussion!
- Defense Umbrella Paragraph – overall conclusion as to the defense, legal rule, and elements. Remember to provide a separate CREAC for each element in the body of the discussion!

Citation

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Happy Drafting!

