



Academic Success Program

Outlining Workshop

NECESSARY STEPS BEFORE OUTLINING

Critical, Active Reading, Briefing and Listening skills

- ▶ “Preview” a case before reading and briefing.
 - Look at your syllabus and/or the casebook’s table of contents and skim, if necessary, a secondary source like a hornbook, an E&E book or some other supplement recommended by your professor.
 - Pay attention to topics and themes. Identify where in this organization the materials to be studied fit. Read the notes and questions at the end of the unit.
 - Context helps identify important information, BUT
 - Too much information distracts from attention and retention, so limit note taking on supplemental reading.

- ▶ Read actively.
 - Make marginal notes during reading. (Throw away your highlighters or use them sparingly.)
 - Read each case twice, if possible. On the first read, get a general sense about the case; that is, skim the case. The second read will be much more focused. After the second read, brief the case.
 - Make connections to the material. Visualize the facts; record your reactions to the material.
 - Note the meaning of each paragraph in the margin of the case. Did that paragraph set forth the facts of the case? The plaintiff’s allegations? The court’s reasoning?

- The study of law revolves around learning a whole new language. You may find it helpful to keep a vocabulary list and write out definitions.
- Summarize notes or commentaries from your casebook.
- Write down questions about your readings--look for answers. Visit your professor during office hours and ask questions.

Before Class

- ▶ Pre-class review: read notes and briefs.
 - Repeat out loud if possible, or read central ideas from your class notes to another person. Talk about your notes from a previous class with a classmate.
 - Auditory memory is the sharpest in short term, but
 - Combined auditory and something else is better in the long term. Re-read and condense class notes. Fill in missing concepts or terms.

In Class

- ▶ **Listen** to the professor and to the class discussion. Take meaningful *full* notes.
 - Pay attention to the discussion. Either put away your laptop or put the screen down, so you can engage in the discussion.
 - Record the meaning of discussions, not the play-by-play.
 - Verbatim distracts from meaning.
 - Note often repeated words/phrases and hypotheticals.

- Prepare for being called on (or volunteering to speak) in class.
- Recognize the kinds of questions your professor typically asks.
- Fine tune your brief to meet the format expected by each professor.
- Stay engaged until the very end of class.

After Class

- ▶ The aim of reviewing information is to store it in your long term memory.
 - Information can be most effectively recalled ten minutes after learning has stopped.
 - Repetition strengthens recall.
 - Reread your notes.
 - This is the time to correct omissions, mistakes, etc.
- ▶ Review: periodically but not too often.
 - Repetition makes the memory grow stronger.
 - Review when a “chunk” of the course has been completed.
 - Review to
 - Repeat important information, and
 - Update, revise, and categorize information in light of new course material.

OUTLINING COURSE MATERIAL

Frequently Asked Questions

1. What is an outline?

An outline is an attempt to reduce all the materials (syllabus, class notes, case briefs, notes from outside reading, statutes, problems) into an organized study aid. If you do it properly, your outline will be your primary (only?) study aid for exams.

2. Why should I prepare my own outlines when there are commercial outlines available?

As you prepare your own outlines, you synthesize class oriented case briefs, class notes and other course material into a format useful for exam study.

As you prepare your own outlines, you develop the skills necessary to understand the law in a way that will help you apply it to resolve the issues in a long factual hypothetical, under pressure, with time constraints. That is, as you prepare your own outlines you are studying for exams.

As you prepare your own outlines, you condense the course material included in your syllabus, covered by your professor, in a way that is meaningful to you and is tailored to your professor's view of the course. **The value of an outline comes from preparing it yourself.** As you struggle with the organization of your own outline, you begin to understand how an area of the law operates.

3. When should I begin my outlines?

Generally, the end of the fifth or so week of classes is a good time to begin outlining. Only then will you have covered enough material to organize and synthesize your notes on one or two topics. Whenever you begin, the goal is to try to complete your course outline early during the reading period after classes end but before exams begin so that you study for the exam almost exclusively from your outline. An outline is only effective as a study aid if you have time to read it several times, and use it to answer practice exam questions.

4. How much time should I allow for outlining?

Outlining is a very labor-intensive task, so you should set aside a large block of time--at least four hours--for each outlining session. However, each person's concentration span is different. Consider working in one or two hour blocks with a ten-minute break between each block.

5. How long should an outline be?

Your outline should be long enough to include all the material in the course in a concise fashion. The goal is quality, not quantity. Each student's outline will be different. Some students can jot down a note or two on a key point, while another student includes a detailed summary of that point. The length of the outline depends upon what best suits your learning style. Some outlines are as short as 10 or 12 pages; others are 50-60 pages, or even more. You should be able to read through your outline in its entirety at least twice in a day.

6. Do I prepare different types of outlines for open and closed book exams?

Yes. In closed book exams, students are not permitted to bring any materials into the exam with them. In an open book exam, some professors allow students to bring a code or statute, a casebook and a

student's own outline; other professors place no restrictions on what a student may bring into an exam.

If you are permitted to bring in your outline, you should tab it or prepare an index to make the outline more "user friendly" so that you can quickly locate what you need.

For closed book exams, consider reducing the outline to a memorable checklist which includes all the major topics covered in the course.

7. Once I have completed my outline, do I just memorize it?

No! While you should read and re-read your outline, the real value of a course outline is using it during study group discussion and to answer practice exam questions. You may decide to condense your outline into two shorter versions. One will be a skeletal "outline of your outline", which you can use as a checklist during the exam if your professor allows you to bring materials into the exam. In a closed book exam you will memorize the checklist. The other should be that checklist, with the major issues explained in your own words. This will make your outline a more useful and useable tool.

8. How do I find the time to do an outline?

To successfully manage your time you must make your own style work for you. Some people work best with a fully organized and detailed schedule; others feel pressured and resentful when a calendar with specific time commitments stares them in the face. Whatever your individual style, you must organize your time. Efficient use of time is crucial to your success.

If a fairly rigid schedule works for you, fill in fixed blocks of time first. Be sure to include class time and other regularly scheduled events or activities.

Include time for essential daily activities (eating and sleeping, for example) and errands (doing the laundry).

Schedule time breaks. Be sure to include time to work out or get some exercise. Block out time for family, friends, religious or other commitments.

Monitor your time plan. See where there is at least a one-hour block of time. Each one-hour block is time to brief a case or review class notes and prepare for class. Since outlining requires larger blocks of time, consider using the weekends for outlining a topic in a course. Do not try to do any outlining when a writing assignment is due.

If a rigid schedule is too restrictive for you, try the "list" method. Make a list of everything you have to do the next day. Include everything--family commitments, outside work, study, meals and exercise. As you complete each task, cross it off the list. Just to be sure to complete each task every day so that you do not fall behind in your studies.

If you work outside of school, or have significant family responsibilities, you must make use of every precious minute. Read on the subway; try something easy to handle, like reading on a mobile device or carrying flash cards. If you drive to work or school, listen to commercially prepared lecture tapes.

No matter how much or little time you have, block out regular study sessions for each week. To combat fatigue, avoid studying for more than two hours at a time without a break. Try two hours with a ten-minute break each hour. If you have more time, schedule a half-hour break before the next two-hour session.

Weekly Schedule

	Mon	Tues	Wed	Thu	Fri	Sat	Sun
8:00-9:00 am							
9:00-10:00 am							
10:00-11:00 am							
10:00-11:00 am							
11:00-Noon							
Noon-1:00 pm							
1:00-2:00 pm							
2:00-3:00 pm							
3:00-4:00 pm							
4:00-5:00 pm							
5:00-6:00 pm							
6:00-7:00 pm							
7:00-8:00 pm							
8:00-9:00 pm							
9:00-10:00 pm							
10:00-11:00 pm							
11:00-midnight							

HOW DO I BEGIN MY OUTLINE?

Begin with your course syllabus and/or the table of contents from the casebook.

- ▶ List all the topics from your syllabus. If the syllabus tracks the table of contents, list the subtopics from the table of contents.
- ▶ Review your case notes and case briefs from the first listed topic.
- ▶ Read and highlight class notes on that topic.
- ▶ Review outside reading on that topic.

IMPORTANT NOTE: organize your outline around concepts, not cases.

- ▶ Include a general statement about the topic. This may include an overview or some background material. This information may come from your class notes, a casebook or a hornbook. Use your own words to explain the main policies in this area of the law.
- ▶ For each subheading, include definitions and elements, if any, of **the rules of law**. Include:
 - general rule with all its elements (from your class notes, if possible).
 - the reason or rationale supporting the rule
 - exceptions to the rule/defenses
 - other sources referred to by the professor:
Restatement, MPC, FRCP
- ▶ Use **cases** and hypotheticals to help define concepts and rules. Include examples from the cases to illustrate or explain rules. **It is generally not necessary** to memorize the names or holdings of particular cases (although relevant case names can provide a useful shorthand reference for a concept). It is necessary to use what you have learned

from the cases to analyze and resolve legal problems as they appear on exams.

- ▶ **Most professors test what they teach.** For each topic you outline, review your class notes and let them (not a commercial outline) be your guide as to what is important. Include your professor's remarks, questions, and hypotheticals. You might change font to denote your professor's comments, or use the professor's initials or the word "Prof".

For each major topic that you outline ask:

- What set of problems are presented by the cases in this section?
- What legal issues arise from these problems?
- What rules (principles) can be applied to solve these problems? What areas remain open and ambiguous?
- What policies are served by the rules? Policy considerations form the underpinning of why certain laws have been created or adopted. Include policy in your outline, particularly if your professor stresses policy.

- ▶ **Develop a checklist of important points in each of the major areas of the course.**

For each section in the outline, read the case notes at the end of the chapter in your casebook. These questions are often focused, related to the issues raised in the cases, and present interesting hypothetical situations for discussion, not unlike exam questions.



Warning:

The following outlines are intended only as examples of the structure or format of an outline. Do not use as a substitute for anything you have discussed in class.

ONE EXAMPLE OF A SKELETAL OUTLINE: NEGLIGENCE

- I. (Issue) Negligence
 - A. (Rule) Negligence is the breach of a duty of care that results in the actual and proximate cause of plaintiff's injuries.
 - B. (Sub-Issue) Duty
 - 1. (Sub-rule) Duty involves:
 - a. Is there a duty owed to P?
 - b. If so, what is the standard of care?
 - i. Reasonable person standard
 - C. (Sub-Issue) Breach
 - 1. (Sub-Rule) Has D breached the standard of care?
 - D. (Sub-Issue) Actual Cause
 - E. (Sub-Issue) Proximate Cause
 - F. (Sub-Issue) Damages

II. (Issue) Defenses to negligence

- A. (Rule) Conduct by the P that is a contributing cause of his own injuries, such as contributory negligence, assumption of the risk, or comparative negligence.
- B. (Sub-Issue) Contributory negligence
- C. (Sub-Issue) Assumption of the risk
- D. (Sub-Issue) Comparative negligence

Note: This level of the outline provides the “big picture” allowing you to view all the major issues/elements.

BASIC OUTLINE FORMAT APPLIED TO THE ISSUE OF “DUTY TO OTHERS”

- I. (Issue) Is a duty owed to others?
 - A. (Rule) No duty to act unless:
 1. the D has already undertaken aid
 2. the D was responsible for P’s peril
 3. there was a duty to warn or control the conduct of a third party
 4. there was a special relationship between P and D
 - B. (Sub-issue) The D has already undertaken aid
 1. (Sub-Rule) D has already undertaken aid when he/she takes substantial steps to assist P
 2. (Analysis) Facts and arguments (include cases and professors ‘hypotheticals here):
 - a. Has undertaken aid: D sees P lying on the sidewalk bleeding; D stops and begins putting pressure on the wound to try to stop the bleeding. D owes a duty because he took substantial steps to help P by trying to stop the bleeding (case).
 - b. Has not: D sees P lying on the sidewalk bleeding; D keeps on walking; D owes no duty because he did not do anything to try to help P (case).
 - c. Maybe: D sees P lying on the sidewalk bleeding; D stops and tells P that he is to run to the nearest payphone and call 911; D is distracted and fails to call 911; P bleeds to death. D

owes a duty because he took substantial steps by telling P that he will help him by calling 911. However, D would argue that he owes no duty because by simply offering to call 911 he did not do anything to actively relieve P from bleeding to death.

C. (Sub-Issue) The D was responsible for P's peril

Note: At this level, your outline should contain more detail, especially the information contained in the "analysis". The amount of detail entered here directly leads to your ability to issue spot and articulate the arguments on your exams.

BASIC OUTLINE FORMAT: INTENTIONAL TORTS- INTENT

The following is a sample of a few pages from a torts outline. It is intended to illustrate the structure of an outline. Notice how the broadest aspects of the outline naturally lead into more specific ideas that provide further explanation. Also, notice that the hypos and cases provide further explanation. **Note:** Do not use this in place of your own outline or as a substitute for anything you have discussed in your classes.

- I. **Intent:** Either must desire to cause some mental or physical effect on plaintiff or must act with substantial certainty that tortious event would follow. Generally, reckless or negligent actions are not enough for intent.
 - A. **Volitional act:** Tort must result from volitional act on part of defendant. Movements while sleeping or involuntary body movements do not satisfy requirement.
 - B. **Malice or an intent to hurt not necessary:** All that is required is an intent to affect the plaintiff. Normally, defendant does intend to harm, but this is not necessary.
 1. EXP: Garratt v. Dailey (text 10). Child pulled chair away and plaintiff fell to ground when tried to sit. Trial court found no liability because child did not intend to hurt P. Appeals court remands and states that child liable if acted with substantial certainty that prohibited contact would result.
 2. HYPO 1: D shoots gun into crowd and hopes that bullet will miss everyone. Intended battery because acted with substantial certainty that bullet would hit someone. Hope that shot would miss irrelevant.
 3. HYPO 2: D hunting and shoots at deer. Shot misses deer and hits hiker whom hunter never saw. No intent. Never saw hunter, so cannot say acted with substantial certainty that harm would

result. Also, no transferred intent because shooting a deer is not a battery.

C. Transferred intent: Three different types of transferred intent.

1. **Intent to commit tort on different person.** When act with intent to commit intentional tort with regard to party A, but actually commit tort on party B, intent transferred and defendant still liable.
 - a. EXP: *Talmadge v. Smith* (text 15). Defendant throws stick at boy who was with friends on roof. Stick misses intended target and hits another boy whom defendant never saw. Defendant still liable because intent to hit one person in crowd transferred to actual victim.
2. **Intent to commit different tort on same person.**
3. **Intent to commit different tort on different person.** If have intent to commit five most common intentional torts on party A, but act causes another tort to party B, defendant still liable. Torts included are:
 - a. assault
 - b. battery
 - c. false imprisonment
 - d. trespass to land
 - e. trespass to chattels

D. Mental illness and intent. Party with mental illness can still form intent necessary for intentional torts.

1. *McGuire v. Almy* (text 20). Mentally ill defendant struck plaintiff with leg from piece of furniture.
 - a. Held: Mental illness does not preclude finding of intent even if attack would not have occurred without illness.

- b. Rationale: Practical solution to difficult issues. As between injured party and defendant, loss should be borne by wrongdoer.

II. Intentional torts

A. **Battery:** Unpermitted and harmful or offensive touching of another by an act intended to result in such contact.

1. Unpermitted: If party consents to touching, there can be no liability for battery.

- a. Express consent: Actual consent by plaintiff. Consent to surgery.

- i. Mehr v. Williams (text 22). Defendant doctor operated on right ear, but had only obtained consent to surgery on left ear. Held: battery. Today, consent forms are written to cover additional necessary procedures.

- b. Implied consent: People must accept certain touching in society.

- i. Hypo 1: Gentle nudge by someone to get on subway. Implied consent to this touching.

- ii. Hypo 2: Push someone out of the way because the person is blocking the door, and defendant pushes hard enough that plaintiff hits the ground. No implied consent to this level of touching. Goes beyond what is expected in society.

2. Offensive: Courts apply objective standard of offensiveness. Person of peculiar sensitivity cannot recover based on touching unless would be offensive under societal standard.

- a. Objective standard may not apply if defendant is aware of plaintiff's sensitivity.

3. Touching items closely associated with plaintiff's body. If defendant touches item that is associated with plaintiff's person, touching element satisfied.
 - a. EXP: Fisher v. Carousel Motor Hotel (text 30). Defendant grabs plate from plaintiff's hand while plaintiff in buffet line because establishment doesn't serve black customers. This action satisfied touching element because plate was closely associated with person when it was grabbed. In this context, also offensive.
 - b. Note to self: seems that item touched must be in contact with plaintiff's person, but that no special personal attachment to item is required.
4. Unanticipated harm. As a general rule, when defendant's actions constitute a battery, then the defendant will be liable for any harm that results from the battery. Plaintiff will be compensated for unanticipated or unintended harm.
 - a. HYPO: Defendant decides to play joke on friend and grabs him around the throat from behind and pretends to choke him. Startled, the friend turns his neck quickly and suffers a serious neck injury.
 - i. Here, D liable for this unintended harm as long as this was a battery.
 - ii. Consent: Possible, but unlikely, that plaintiff might have consented to touching him if this was the kind of joke that they played on each other on a regular basis. However, facts are silent on this point.

FINAL COMMENTS ON OUTLINING

Outline Length

There is no magic length for an outline, but it should be short enough that you can read it through from beginning to end multiple times in a single day. Also, if your outline is so long that you cannot commit much of it to memory, and then it is likely too long. Remember, your outline is supposed to represent how the various rules that you discussed in class fit together. It is not supposed to be a treatise.

Condensing Your Outline

When you first start studying from your outline, you should be reading the entire document. As you get closer to the examination, however, make your outline shorter and see whether you still remember the key concepts. As a first step, remove the case references and hypotheticals. Once you have studied from this version for a day or so, remove the rules next. This should leave you with a list of topics. Once you have studied from this version, remove most of the topics so that you are left with only the broadest organizational concepts, likely only those represented by a roman numeral.

Memorize a Skeletal Outline

The final condensed version of an outline is a skeletal outline. Consider committing this entire version of your outline to memory. It should not be too difficult to do as this version should be no longer than one-two pages. Then, when you walk into a closed book examination, write down your skeletal outline onto scrap paper (if provided), the sheet containing the question, or the inside cover of your blue book. Doing so accomplishes two things. First, it forces you to write something with which you are very familiar, thereby relieving pent up stress. More importantly, this skeletal outline will act like a checklist. Consult it during your examination. If the parole evidence rule was listed on your contracts skeletal outline and you

never referenced it in your answer, then you may want to go back and look at the question to see if you have missed something.

Use your outline during the semester to make sure it “works”. Complete a section or two of your outline and look at one of the old exams given by your professor in the course you outlined. Does your outline help you to answer the question on the exam? Does your outline contain enough information? Have you included too much detail from cases without understanding the area of law?

Remember. Most exam questions test not only your recollection of rules, but your ability to use those rules and concepts to resolve problems raised by the hypothetical fact pattern. Your outline should help you to do that.