



## OUTLINING FOR EXAMS

*Revised in 2015<sup>1</sup>*

### ***What is Outlining?***

There is a good chance that, at some point in your law school career, you have heard your classmates allude to the process of “outlining” for exams. The meaning of that term, however, very likely varies significantly from student to student. While that fact may perhaps add to a sense of anxiety that you are not outlining “correctly,” it is natural consequence of the fact that outlining is an extremely personal process, which no two people will approach in exactly the same way. Even still, the various strategies that can fairly be described as “outlining” do, in fact, share important commonalities.

First, and probably most critically, preparing an outline is an important way to review, synthesize, and master the content that you have covered in your courses; in this respect, it functions as a sort of study guide. As part of the outlining process, you will go through your course notes and assigned readings (and, possibly, other resources as well) to pick out the most important material to master by the time of the final exam. In so doing, you very likely will uncover insights that eluded you the first time that you encountered the material and spot gaps in your notes or understanding. This is some of the most important learning that you will do in law school and will help you develop a fluency with the course material that will serve you well during the exam.<sup>2</sup>

Second, and perhaps somewhat more prosaically, outlining is the process of compiling one (or more) documents that provide an overview of the course material in preparation for your final exam. Many law school classes, as you very likely know, are “open book” finals, and the choice of what material you bring with you into the exam is an important one. In this respect, outlining resembles other sorts of writing that you may have done, in that it requires you to think critically about how you can most clearly express your point to your audience, although, significantly, the audience in this case is yourself.

### ***So is there a right way to outline or not?***

Yes and no.

Many people will tell you that there is no one way to outline for a course, and, that is certainly good advice: No two students are quite alike in any respect, and that is equally true when it comes to outlining strategies. Indeed, what works for one successful student simply may not work for another.

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<sup>1</sup> Current revision by Chris Yeager. Previously revised by Felicia Mitchell in 2009. Original by Alexis Martin and Jennifer Bennett.

<sup>2</sup>In fact, John Goldberg and Georgetown Law alum Barry Friedman—now professors at Harvard Law and NYU Law respectively—say that preparing an outline “is the best studying for the exam you are likely to do.” BARRY FRIEDMAN & JOHN C.P. GOLDBERG, *OPEN BOOK: SUCCEEDING ON EXAMS FROM THE FIRST DAY OF LAW SCHOOL* 139 (2011).

Even still, not all strategies are equally likely to succeed, and there are some tips and choices that students may be well advised to consider. The purpose of this handout is to put those considerations on your radar.

***Tip #1: Give serious consideration to making your own outline.***

It can be very tempting to find a detailed outline that another student has put together and rely on it exclusively, rather than creating your own. While that impulse is understandable, it is ill-advised.<sup>3</sup> To be sure, there is absolutely nothing wrong with looking to another student's outline when building your own (more on that later). Even still, the process of sorting through a semester's worth of learning and forcing yourself to distill it to a set of core points that you can commit to paper will improve your grasp of the material.<sup>4</sup>

***Tip #2: Make your outline specific to your course and professor.***

Another risk inherent in relying excessively on old outlines is that you may well end up depending on an outline that simply was not prepared for the course you took. This is a problem for two main reasons.

First, no two professors will teach the same course in exactly the same way. This observation is more than just a truism about education generally; rather, it might really make a difference in how you approach a law school exam. For instance, many property professors in a nod to tradition will drill into their students the difference between shifting and springing executory interests. Other professors, however, may think that the formal distinction between the two is not worth devoting class time to.<sup>5</sup> It would thus likely be a waste of valuable time for one student to incorporate the distinction into her outline just because she saw it in her (smart and successful) 2L friend's old outline. The reverse, of course, is also true; it is possible to find an outline that was complete for another professor's course which omits important content from your professor's course.

Second, even if you find a great outline from the same professor's course, it is worth keeping in mind that the course's focus and content may change even for the same professor from year to year. This could be because an important new case was decided or an existing precedent overruled.<sup>6</sup> It could also just be because the professor decided to try something new.<sup>7</sup>

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<sup>3</sup> See Karol Schmidt, *Learning from the Learners: What High-Performing Law Students Teach Us About Academic Support Programming*, 4 PHOENIX L. REV. 287, 308 (2010) ("Overall, the lack of outlining was the notable distinction between high-performers and underperformers in test preparation.").

<sup>4</sup> See, e.g., Michelene T. H. Chi et al., *Eliciting Self-Explanations Improves Understanding*, 18 COGNITIVE SCI. 439, 439 (1994) ("Learning involves the integration of new information into existing knowledge. Generating explanations to oneself . . . facilitates that integration process.").

<sup>5</sup> Cf. D. Benjamin Barros, *Toward A Model Law of Estates and Future Interests*, 66 WASH. & LEE L. REV. 3, 72 (2009) ("I disagree that the distinction between shifting and springing interests has any pedagogical value.").

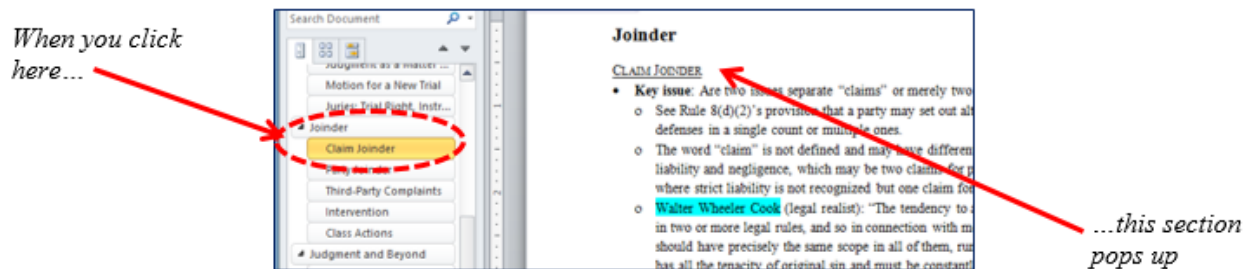
<sup>6</sup> Don't think this happens only after a big Supreme Court decision dominates the headlines for a few days; it also occurs with more obscure but equally important areas of the law, which can be easy to miss. For instance, a student taking an exam in 2013 probably would have done well to equate the "zone of interests" test with the doctrine of prudential standing. After 2014, that strategy would be much less of a winner. See *Lexmark Int'l, Inc. v. Static Control Components*, 134 S. Ct. 1377, 1387 (2014) ("Although we admittedly have placed [the zone-of-interests] test under the 'prudential' rubric in the past . . . , it does not belong there. . . .").

<sup>7</sup> See FRIEDMAN & GOLDBERG, *supra* note 1, at 138 ("Most of your professors will rearrange courses from time to time to improve on materials that didn't work well the previous year, or to cover new topics, or to try out new ideas.").

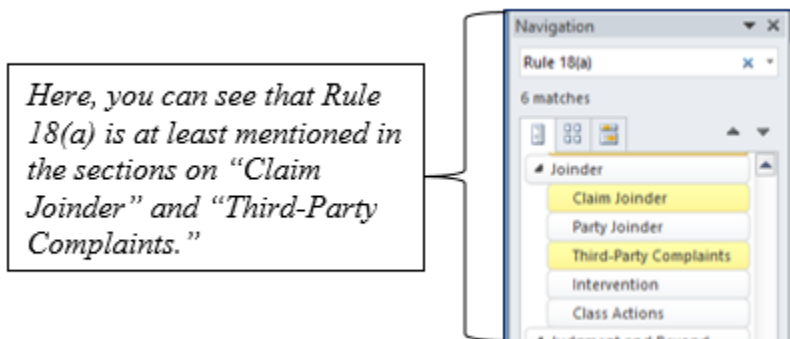
More generally, however, when making your outline, use to your advantage the fact that you have spent hours listening to your professor. Are there themes that she seems to harp on? Doctrines that she seems to find particularly important? If so, incorporate these into your outline! When you use them on the test, it will show the professor that, yes, you have been listening all semester.

**Tip #3: Make your outline easy to search with clickable tables of content.**

It is no great secret that “control + F” or “command + F” can be an effective way to find a particular doctrine in a long outline during an exam. But the process of sorting through a long document even using that strategy can still be cumbersome. Fortunately, in Microsoft Word, it is possible to insert headings into your document so that you can access a clickable table of contents during your exam. For example...



As an added benefit, when you do use “control + F” to find a term, many versions of Microsoft Word will highlight the sections that contain that term in your clickable table of contents.



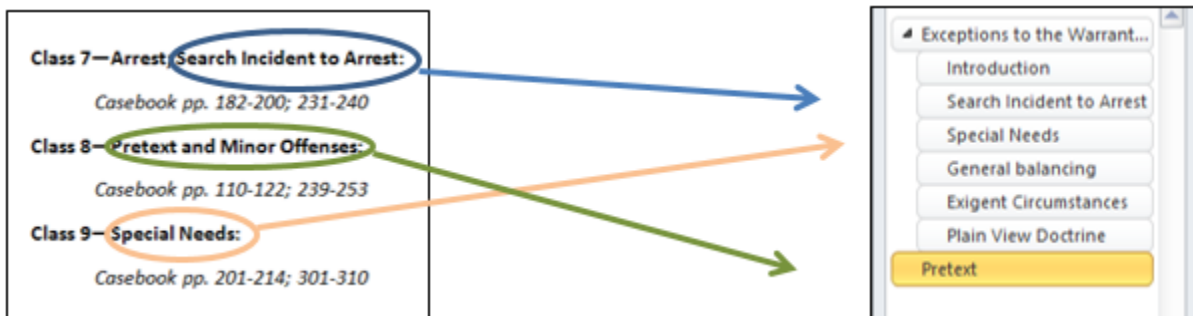
For the technologically uninitiated, an overview of how to insert this feature into your outline appears in the appendix at the end of this handout.

**Tip #4: Use your course syllabus to organize your outline, but tweak where necessary.**

When trying to decide how to organize your outline, keep in mind that your professor has already been in your shoes, and the choices she made when structuring her syllabus are probably a good starting point for figuring out how to structure your outline.



Other times, however, it might make sense to you to arrange your outline differently than the professor arranged the syllabus. In that case, you might want to consider how the textbook arranged the topics or what other students are doing. But, at bottom, the best approach is probably the one that makes the most sense to you.



**Tip #5: Think strategically about how long you want your outline to be.**

There are two common (and arguably mutually exclusive) myths about outlines that you might have heard. On the one hand, many people seem to think that a good outline is necessarily a long outline. On the other hand, you might have heard that you can easily and inadvertently make an outline too long, such that it is unusable. It is, of course, true that an outline can be too long or too short for a particular student. But when constructing your outline, don't pay too much attention to what other students are doing and figure out what length feels right to you.

This may depend somewhat on outside circumstances: For instance, if you know that your professor will allow you to use an electronic copy of your outline, longer may be better, as you can rely on “control + F” or “command + F” to find the names of doctrines and cases quickly. However, if your outline feels a bit on the longer side, it may make sense to prepare a supplementary “attack” outline that contains the essential material, such as key cases and the tests that you will need to apply on the exam. Of course, the amount of content you're able to develop may depend on when you start your outline, so plan accordingly!

***Tip #6: Set aside sufficient (but not too much) time to make your outline.***

As mentioned above, a substantial part of the value of outline consists in its ability to help you further your understanding of the course material. For that reason, it is generally a good idea to make sure that you don't start your outlines so early that you will have lost the insights you gleaned from the outlining process by the time the exam rolls around or, worse, early enough that you don't yet have the facility with the material to articulate the law in an accurate and useful way. Of course, the reverse can be a problem too; by leaving your outline until too late in the semester, it can be all too easy to cut corners. When to begin an outline is often a very personal choice; however, it is best to be on guard against both the temptation to procrastinate and the risk of "jumping the gun."<sup>8</sup>

***Tip #7: Consult another student's outline or a commercial supplement when building your outline***

Although (as is hopefully now clear) it is important to build your own outline, it is worth keeping in mind that it can be helpful to consult outside material not assigned for class when doing so. This material can include commercial supplements such as the Emanuel Law Outline series or the Examples & Explanations series as well as outlines prepared by students who have taken the class before.<sup>9</sup> The advantages of this approach are probably pretty clear—those outlines can help you double check that you haven't made an error somewhere in your own work, and they can give you some insight into what another student or author thought was important about the cases or doctrines that you covered in class. They may also offer advantages peculiar to a particular course or professor: You might find, for instance, that you have a professor one semester who spends comparably more time on the policy concerns underlying a legal issue and less time on the black-letter doctrine than other courses you have had. In such cases, confirming the doctrinal nitty-gritty in a commercial outline might make a great deal of sense. Similarly, although one might wish otherwise, you might occasionally find yourself scrambling to catch up to where you would like to be in your outline by a given point in the semester. For those sorts of "life happens" moments, having a commercial supplement or old outline handy might allow you to make more efficient use of your time.

But a word of caution is in order here too: Simply relying another student's outline or a commercial supplement deprives you of a chance to go through the material again and synthesize it in your head such that it will be second nature to articulate during the exam. For that reason, you would probably be best advised to consider other students' outlines and commercial supplements as a tool for building your own, rather than something approaching a ready-to-go alternative.<sup>10</sup>

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<sup>8</sup> While such a personalized determination as when to start outlining doesn't lend itself to clear-cut advice as to a specific date upon which to start, a common error first-semester 1Ls make is to punt outlining until Thanksgiving break, thinking that the lull in classes and new reading assignments affords them a natural point to turn to the process of outlining. While that might be a fine approach for some, it is not for everyone! See Danielle B. Kocal, *Law School Outlining: Why, When and How to do it*, BLOOMBERG LAW, Aug. 9, 2013, at 2, available at [http://www.law.pace.edu/sites/default/files/academic\\_success/Kocal\\_Outlining\\_Bloomberg.pdf](http://www.law.pace.edu/sites/default/files/academic_success/Kocal_Outlining_Bloomberg.pdf).

<sup>9</sup> The GULC Student Bar Association maintains an outline bank going back a number of years, which can be found at <https://sp.law.georgetown.edu/sites/sbaoutlinebank>.

<sup>10</sup> Put another way, you should consider other students' outlines as "raw material, rather than as an off-the-shelf consumer product." See FRIEDMAN & GOLDBERG, *supra* note 1, at 139. Some people who have thought about this issue think that even that

**Tip #8: Outline creatively, if you so choose.**

Just because it is called an “outline” doesn’t mean that your outline needs to be only a list of bullet points and Roman numerals. If, in the course of studying, you think about another way to organize the information that makes sense to you, don’t be afraid to give it a shot. I will mention a few possible options here, not so much as specific recommendations, but rather to show that there really are a number of creative alternatives to what may come to mind when you think of an outline in the abstract.

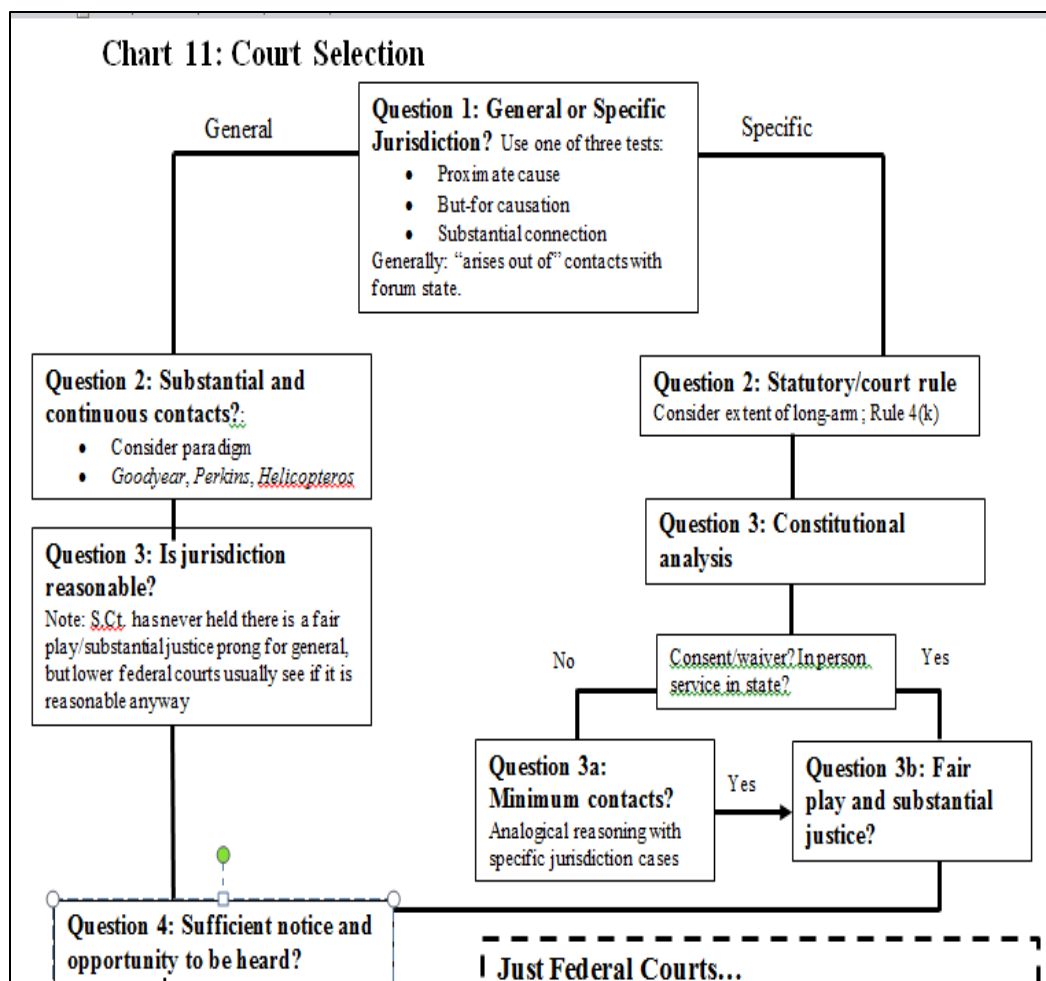
As one option, you might consider a process-based approach to developing your outline, under which you organize the topics not around specific tests and cases but rather through a series of steps designed to help you march through a question on the test. For instance, under this approach, you might begin your section on personal jurisdiction (perhaps in an attack outline) like this:

<p><b>Topic:</b> Personal Jurisdiction.</p> <p><b>Question 1:</b> Does the state have a long-arm statute?</p> <p>    If Yes: Go to question 2.</p> <p>    If No: There is no jurisdiction.</p> <p><b>Question 2:</b> Was the defendant served in state?</p> <p>    If Yes: There is jurisdiction.</p> <p>    If No: Go to question 3.</p>
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Similarly, it might help you to visualize complex areas of the law through a flowchart. Under this approach, your section on personal jurisdiction may begin something like this...

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might be too much of a shortcut. Two somewhat less sanguine law professors have argued that “preparing for the final by using an outline . . . that you did not write yourself—even if it is authored by someone you consider to be the class ‘star’—is like attempting to make the NBA by reading about Michael Jordan’s practice regimen.” RICHARD MICHAEL FISCHL & JEREMY PAUL, GETTING TO MAYBE: HOW TO EXCEL ON LAW SCHOOL EXAMS 207 (1999). That might be an overstatement, but it still raises a good point—Preparing for exams effectively is less a matter of having access to the right facts than it is a matter of having a good process in place so that you really master the material.



In some cases, your problem may be less whether you understand the law than whether you will actually remember all of the possible points that you may want to address if that area of the law comes up on the exam. In that case, when constructing your outline (or, perhaps better yet, later when developing your attack outline), you might want to consider putting together a “punch list” of things not to forget. For example, you might be worried about remembering all the different considerations that can be implicated by a strict liability question on a torts exam...

Strict Liability

- Rest 2d 520 (factors), Rest 3d 20 (high risk, uncommon use, unavoidable by due care)
- Abnormally dangerous
- Natural/artificial land use (Rylands)
- Likely to do mischief (wild animals)
- Limits on contributory negligence, but comparative fault/assumption of risk okay
- Products liability
  - Manufacturing: Depart from intended design (3d), Consumer exp (402A)

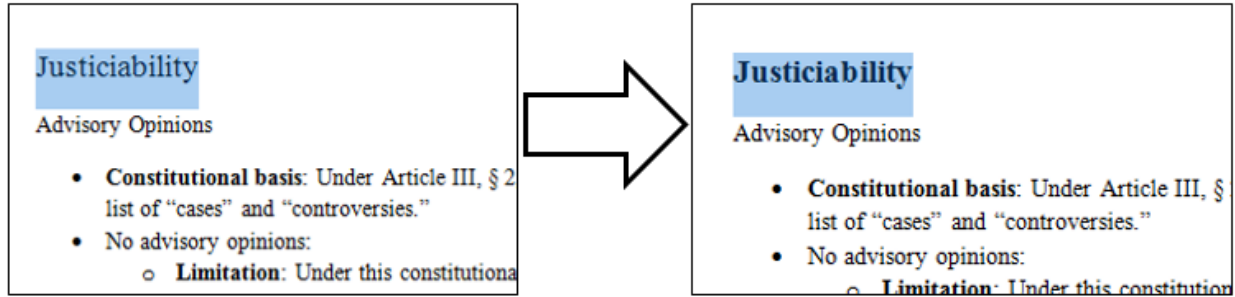
### *The Takeaway*

All of this boils down to one very simple piece of advice—identify your problems and be open to creative solutions. Are you too frantic on exams to read through your outline in a way that helps you? Then consider whether color-coding would help (e.g., highlighting cases in yellow, Restatement provisions in green, etc.). In this respect, outlining is not much different than other writing—to be successful, you have to know your audience. But in the case of outlining, the audience and the author are the same, so make sure that, whatever route you go, it works for you.

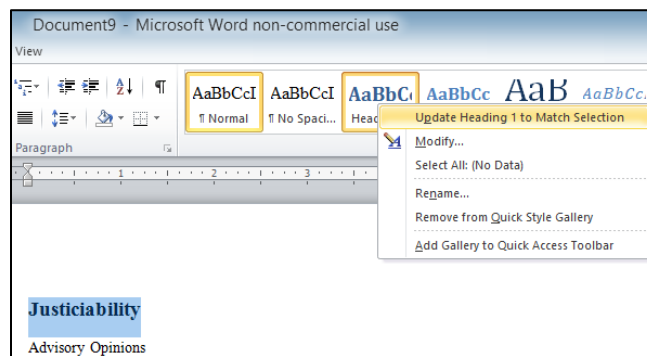


**Appendix: How to Insert Clickable Tables of Contents into your Outline**

To begin, highlight the text that you want to appear as your top-level entry (i.e., entries corresponding to “joinder” in the example below) in the table of contents. If you want your top-level entries in table of contents to have a particular format, change that formatting now.

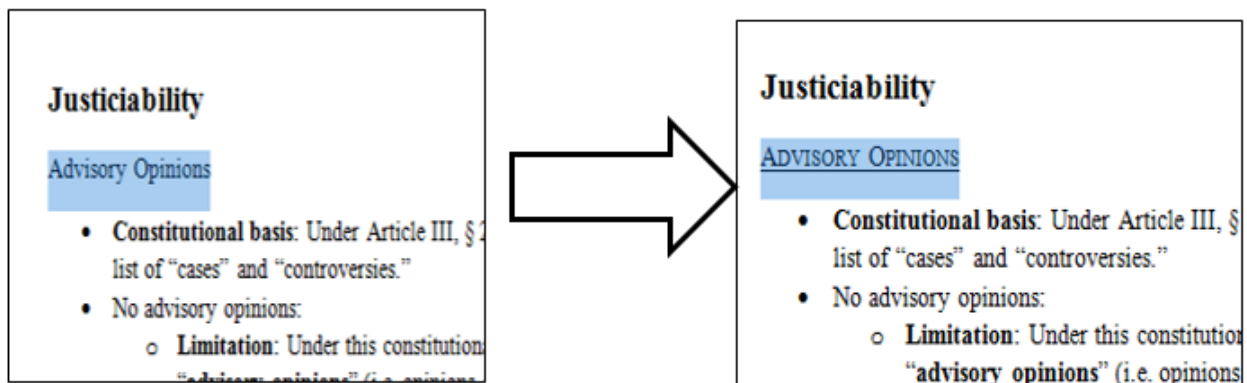


From there, go up to your “Styles” bar on the “Home” tab, right-click “Heading 1,” and select “Update Heading 1 to Match Selection.”

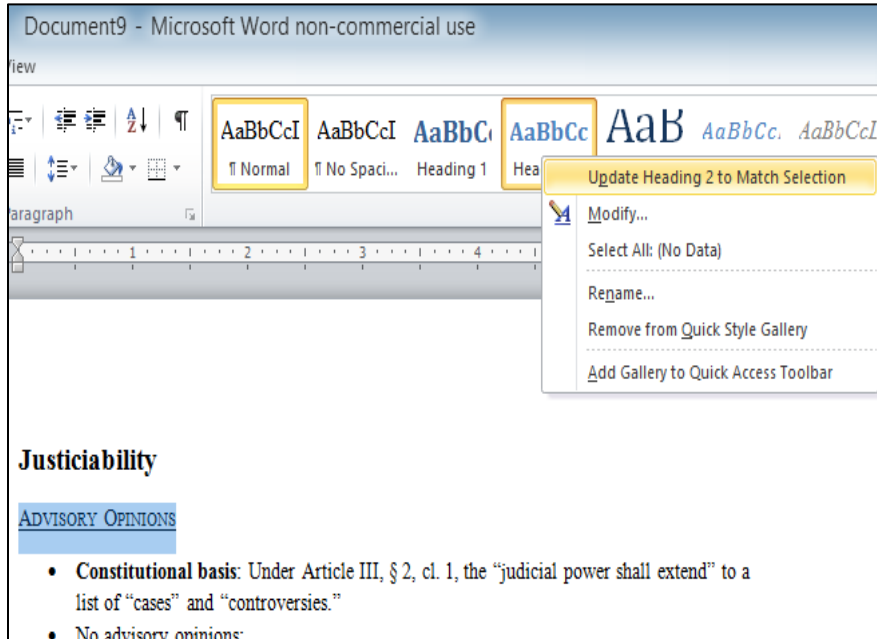


Once you do that, for all text that you want to include as a top-level entry in your clickable table of contents, all you need to do is highlight that text and click “Heading 1.”

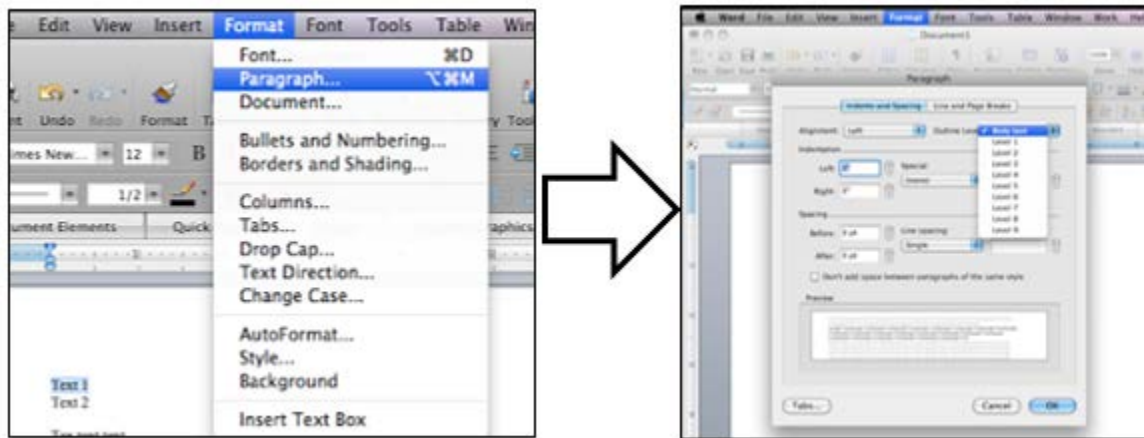
As above, pick a formatting choice for the second-level entries in your table of contents and make that change now ...



Once you've done that, go up to your "Styles" bar on the "Home" tab, but, this time, right-click "Heading 2," and select "Update Heading 2 to Match Selection."



Although the foregoing approach should apply generally to Microsoft Word for both Macs and PCs, certain older generation Macs may require a slightly different approach. In such cases, you'll assign a heading to the text by highlighting the text, opening the Paragraph menu (found under "Format"), and then picking a heading level.



To pull up the list of headings in your document, you may have to make sure that your Navigation Pane is turned on under "View."

