OUTLINING TIPS AND TECHNIQUES[1]

Outlining is often helpful because it can both serve as a useful tool to use during an exam and help to ensure that you review the course material from the entire semester. While you review and prepare your outline, you may be alerted to gaps in your class notes or weaknesses in your grasp of the class concepts and their connection to each other. Formulating an outline may enable you to **see the "big picture" of the concepts and skills** that your professor is teaching in the course. And creating your own personal outline offers you the chance to "own" the material and organize it in the manner most accessible to you in applying the law. Exams can be overwhelming and move quickly. Having an outline can **serve as a "tool"** to keep you focused during an exam and inform your next steps in answering a question.

Many students' preliminary question is "**When should I *start* outlining?**" While every upperclassman you talk to will have a different answer, it is usually a good rule-of-thumb to wait until several months into the course, so you have a better idea of how the concepts all fit together. With the fall semester as an example, some students start outlining in mid-October, which provides more time to adapt outlines and take practice exams, while others wait until Thanksgiving break to knock it all out quickly. Get started as soon as you feel comfortable, but recognize that by starting too early, you may do yourself a disservice if you aren't familiar enough with the concepts to outline effectively.

The purpose of this document is to demonstrate several techniques you may use to construct outlines for exams. Outlining is an extremely personal process; no two people outline alike. Some people may even choose not to outline; if that is you, do not feel obligated to outline. You should assess your own learning style and decide whether outlining will be helpful for you. As such, this document is not comprehensive or exhaustive; rather this document serves as a resource guide. If you decide to outline for your exams, this document should provide substantive advice and answer some questions about the outlining process.

GETTING STARTED

It can be difficult to know where to start when outlining for a class, especially as you have probably never gone through the exercise in undergraduate or other higher education programs. Outlining is different person to person, but there are universal basics in getting started that will help you grasp what material to pull from and how to format your outline.

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1. **Gather your resources.**

Outlining, fundamentally, is about pulling together all the resources you have gathered through the semester to build a master document to use on the final exam. These resources may be made by you, your professor, another student, or available commercially. Resources from your specific class like **class notes** are the most useful, as material covered in class is the most likely to appear on an exam, though resources like **model outlines** from prior years of your professor's class can help organize and fill in gaps in your own outline. Your professor's syllabus can be used to understand how to organize the class, especially if organized topically. A model outline is an outline that another student previously made for the same class with the same professor. To find a model outline, use your resources: the Student Bar Association <u>outline bank</u>, friends, peer advisors, law fellows, and upperclassmen in student organizations.

Most students will use their syllabus or a model outline to instruct how to build the framework of their outline, add material to the framework with their class notes, and fill in any gaps with their casebook, model outlines, and commercial supplements. Getting all of these materials ready before you start outlining (i.e., typing your class notes if you hand wrote them and having any online materials downloaded) will streamline the process.

2. **Decide on the formatting for your outline.**

Because outlining is extremely personal, no two outlines will look the same, but there are some formats that are popular. Looking through model outlines can show you some examples of popular formats. Don't be afraid to combine diagrams with a traditional outline. Some material may lend better to one format than other material in the same class. There are a number of computer software resources available that might help you while outlining. Though most students rely on basic word processing programs, such as Word or Google Docs, you may consider using other programs to create tables, flowcharts, or other diagrams, including LucidChart and PowerPoint.

- *Outline format:* it is called outlining for a reason! An outline format organizes information in a hierarchy using alpha-numerics or bullets (think of a traditional roman numeral outline). This format helps students understand how subtopics (i.e., the elements of negligence) fit into the overall topic (i.e., negligence).
- *Charts/Diagrams:* Using charts and diagrams is a more interactive way to display information. For example, a flowchart of the step-by-step analysis of negligence may ensure you do not miss an element in your analysis in the exam. Many students place case briefs for important cases into boxes within their outline to separate them from the black letter law. Although, it can be difficult to display all the necessary information in a flowchart or diagram.

To make an effective outline to use for an exam, using eye-catching and useful features will help organize the material. **Bolding** and <mark>highlighting</mark> can draw your eye to key terms or ideas that are important to find when scrolling or flipping through your outline. Constructing a clickable <u>Table of Contents</u> can allow you to easily jump between sections. If you're only

allowed a physical copy, physically tabbing the document can serve the same function. Finally, using keywords in the headings allows you to use the search functions in your word processing software (i.e., the Find function in Word).

CREATING A FRAMEWORK

When you begin creating your outline, developing the framework of the outline first can be extremely effective. Organizing the structure before you begin to fill in the details may help you see the big picture of the course and discover any class notes you may be missing. Focus on organizing these sections in a way that will allow you to apply the law in an exam and utilize headings effectively to do so.

1. **Divide your outline into key "topics," "sections," or "steps."**

To do this, identify and write down the main "sections" or "topics" of your outline before filling in any detail from your notes. Your main sections should be broad, general points. This may be done by separating the course into key "topics" or "sections" covered in your syllabus (i.e. Intentional Torts and Unintentional Torts), or into different "steps" in the application of the law (i.e. Offer, Acceptance, Consideration). Some students organize their outlines based on substantive black letter law, others focus on procedural steps, whereas some choose to combine both approaches.

One option is to **use your course syllabus** to create the framework of your outline. Some professors give out syllabi in outline form. If you are lucky enough to get a syllabus organized in outline form, it is often an effective framework for your outline because it is organized in the exact manner that you learned the material and in the exact manner your professor understands the material. However, if the syllabus framework does not track how you would apply the law in an exam, *do not be afraid to deviate from it*.

If you decide to **use a model outline**, it can be a good tool to help you create the framework for your own outline. Once you read through the model outline, determine whether the large headings are structured in a way either you thought the course was structured or is understandable to you, and use the points that make the most sense to you.

2. **Organize each section according to application of the law.**

Regardless of the framework you choose, it is important that it guides you through an analysis of the legal questions potentially at issue in your exam. Although an outline can just be a helpful way to review all the material, because you are putting so much time and effort into the document, why not make it useful *in* an exam, as well? By allowing your framework to **track the way you would apply the law**, you can quickly refer back to it in an exam if you get stuck in the middle of a question and don't know how to proceed. Consider **looking at model or "best" exam answers** to see the order in which that student worked through the analysis.

After you select your main topics or sections, begin subdividing these into smaller sub-sections that will continue to move the analysis along. The analysis of a torts problem is illustrative.

EXAMPLE: Torts

1. **What is the tort at issue?**
   - 1. Battery
     - Are the elements satisfied?
       - A. Intent
       - B. Contact
       - C. Harm / injury
     - Is there a defense?
   - 2. Negligence
     - Are the elements satisfied?
       - Duty
       - Breach of duty
       - Causation
         - But-for causation
         - Proximate causation
       - Injury
     - Is there a defense?

2. **Damages / Liability?**
   - Joint & several liability
   - Several liability

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3. Use headings effectively.

Headings can be a useful way to organize a document and make it more reader-friendly, but they can also be an effective way to organize your analysis. One example of utilizing headings is by posing them as questions. It may seem obvious or trivial but posing headings as a question can quickly provide you language to start writing the next step of analysis in an exam. For example, by including the headline "What is the tort at issue?," you can easily begin writing on an exam, "The tort at issue is [battery] because . . ." Once you complete your outline, consider reading through just the headings. Do they walk you through the legal analysis? If not, do they serve another purpose? These headings can also be the basis for your "attack outline" or "checklist," which will be discussed in more detail below.

FILLING IN DETAILS

Once you have a framework of the key topics of the course, you can continue to put information in your outline that gets more and more specific by filling in the details with black letter law, cases, and policy arguments. Use your notes, casebook, supplemental materials, and what your professor has said throughout the semester for assistance in deciding what is important when taking the exam and thus should be included in your outline. Also, you may find it helpful to **color code each different type of detail** (i.e. cases, policy arguments) to distinguish them as you construct your outline.

Black letter law. Even though professors and casebooks tend to "hide the ball" with what rules to distill from cases, your outline should be primarily based on black letter law and rules. Pay particular attention to how you write rules within your outline--you want **succinct and accurate rule statements** to use for your exam. If your professor has a specific way of wording a rule of law, be sure to use that language. By having succinctly stated rules within your outline, you will be able to easily rewrite the rule from your outline or memorize it if your exam is closed book.

Organizing circuit splits, exceptions, and factor tests can be more difficult than simple rule statements, but these are all nuances that are necessary for an accurate outline. Including exceptions close to the original rule will ensure you cover more issues in an exam. It can be helpful to clearly denote which rule is the majority rule and which is the minority rule to avoid confusion in your outline. Also, clearly showing when something is an elements test (i.e., proving negligence) and when something is a factor-based test (i.e., 4th Amendment search totality of the circumstances) will help you accurately apply the test on your exam, as they require different applications.

Cases. Students take different approaches in incorporating cases from class into their outlines. While full case briefs are rarely necessary, including **case names** can help you to understand the concepts that the case stands for. It may be beneficial to note seminal cases that your professor emphasizes and to refer to specific authority if your class is heavily case-oriented. If your professor asks for citations or references to cases in exam answers, noting case names near the rule of law the case stands for and including some facts from cases in your outline may help you to analogize the exam question facts to the case. However, do not feel obligated to include case names in your outline if you do not feel it will help you to learn the material and if your professor doesn't require them.

Policy. Policy arguments include many different types of arguments: economic theory, justification for certain laws, and the effects of laws. The types of policy arguments to include in your outline largely depend on your professor. Think about the discussions you had during class about the **"why" behind the law**. It can be helpful to include the policy arguments that your professor uses the most in class discussions in your outline to add additional policy arguments to your exam answers. While the basis of your exam answers will come from black letter law, including policy arguments based on your outline can help add more points to your answer.

Using the Torts example discussed above, here are some details you may fill in:

EXAMPLE: Torts

1. Battery
   - Occurs when one intends and *inflicts harmful or offensive unwanted contact* with another person *without that person's consent*
   - Are the elements satisfied?
     - A. Intent
       - Actor must **desire to cause** consequences from his act or **be substantially certain** that they will result
       - Reasons do not need to be **rational** (i.e. mental illness, crazy choice)
       - Dual intent v. single intent
         - Policy: If cannot appreciate offensiveness in *dual intent* jurisdiction, not liable
       - Is there **transferred intent**?
         - A *different intentional tort* against that person
         - The intended tort *against a different person* (<u>Hall v. McBryde</u> car shooting case)
         - A different intention tort against a different person
     - B. Contact
     - C. Harm / injury

GETTING YOUR OUTLINE EXAM READY

1. Shorten your outline by creating an attack outline and / or checklist.

You may have heard your peer advisor, a random 2L in the hallway, or your friend mention making an "attack outline" or a "checklist," and perhaps you've wondered what exactly they are. The truth is that an **attack outline** can take many different forms, but in general, it is a shorter version of your outline (or a different, shorter outline entirely) that you can more effectively use in an exam. This usually **includes only the key points or procedural steps** in the analysis and does not include all the details from your "main" outline. For some people, it may be only 2–3 pages, while for others, it may be 8–10 pages. This might be one of the most effective tools you can create for your exam, because it allows you to quickly reference the next step in your analysis. It can also help you overcome a temporary memory lapse in information. One benefit of having your attack outline track the framework of your main outline is that, should you need more information than what's included in your attack outline, you know exactly where to go in your main outline to find those details.

A **"checklist"** is typically a 1–2 page **list of topics covered** in your course. Your syllabus's headings can serve as an excellent starting point for this. A checklist may also include buzzwords, statutes, or numbered rules, like in Civil Procedure. Checklists can help by allowing you to spot (or eliminate) every possible issue in a question so that you don't walk out of the exam and *then* realize you didn't spot the personal jurisdiction issue, even though your professor spent half the course covering it.

2. How long is too long?

The **type and length of outline you choose may depend on the format of the exam**. For example, you will likely want a shorter "attack" outline for a 3-hour in-class exam when

you're pressed for time, while a longer detail-filled outline may be more acceptable for an 8-hour take home exam. Taking timed practice exams can help you make this distinction and determine your individual needs.

As a general rule, a 100-page outline will be of limited use to you during a timed exam. Most of those details will already exist in your class notes, which you can reference during most exams, if need be. Typically, keeping even "long" or "main" outlines under 50–60 pages is a solid goal. However, at the end of the day, it is *your* outline, so make it as long as necessary to give yourself the peace of mind that you have all the information you may need going into an exam. If you do make an exceptionally long outline, however, the attack outlines you make subsequently will become even more important.

3. Use practice exams to reorganize or adapt your outline.

One of the best things you can do for yourself to prepare for exams is to **take practice exams *using your outlines*.** Give them a test drive and make sure they are useful for you when taking an actual exam. You may have every single piece of information from the entire course *and* textbook in that outline, but if it doesn't <u>assist you in taking the exam</u>, it is likely not being utilized as efficiently as possible.

After you take a practice exam, look at the order in which you answered the exam questions. Does your outline track that order? If not, would it be more helpful if it did? Don't be afraid to **move things around on your outline and reorganize the framework** as you take practice exams and figure out how your brain organizes these issues. If you *are* afraid to change your outline, give yourself some peace of mind and *save different versions* before making the edits. **Be willing to adapt**. You will thank yourself for it later!

As has been mentioned throughout, no two people think exactly the same, study the same, or outline the same. The key is to **do what works best for you and enhances your style of thinking.** However, creating a strong analytical framework of the key issues, filling in the details necessary to more thoroughly answer each exam question, and ensuring that your documents serve as useful tools in an exam can help set you up for success.