SO, WHAT IS OUTLINING?

Outlining is the process of synthesizing rules learned into a set of rules that encompass a body of law.

- Condense your briefs/notes into a master document that focuses on the big picture with enough depth included for later analysis.

“Outlining” can be any method you use to construct a summary of the course.

Process, not product.
WHY OUTLINE?

Synthesis
Feedback
DIY
OUTLINING CONSIDERATIONS

When?

Group Outlines

Commercial Outlines

That amazing outline you got from the law review editor/Circuit Court Clerk/journal outline bank

How long should it be?

Should I outline at all?
COMMON 1L OUTLINING MISTAKES

Waiting.

Including absolutely everything.

Leaning too much on others’ outlines.

Believing you’ll have time to look up in your outline anything you might need during the exam.

Making the outline a thing of beauty.

Believing that the outline is the end goal.
REMEMBER THE GOAL

Forward, not back.
HOW TO START

Create a schedule.

Gather your text, syllabus, case briefs, class notes and handouts, and commercial aids or hornbooks.

Start with syllabus or the TOC—organization of your outline is the first step in understanding the course
- Think concepts, not cases (with exceptions)
- Create a list of topics, logically organize the list, and insert the rule of law
  - Begin with the broadest rule of law and work your way down to specifics
  - Include the rule of law, cases (if necessary), hypos, any quirks of your prof and policy.

If you’re feeling overwhelmed, break the class into smaller parts and tackle it that way.
WORKING WITH RULES

Simple rules
- If A, then B
- Think strict liability
  - If you sell alcohol to a minor, you’re guilty a crime. Doesn’t matter if they presented fake ID or looked 40.

Elemental Rules (most common)
- Example: Battery
  - (1) intent, (2) touching, (3) touching must be harmful or offensive, and (4) must be done to another.
  - Make sure you know the rule for each element.
  - Elements often have sub-elements (i.e. what’s harmful or offensive? Transferred intent?)

Factor Rules
- If A, B and C weighed together justify Z, then Z.
- A, B and C are factors. Unlike elements, you need not satisfy each one, but weighed together they get you to Z.
- Example: Material Breach in contract law. Consider (1) Extent to which injured party will be deprived of expectation, (2) Extent to which injured party can be adequately compensated (3) Extent to which party failing to perform will suffer forfeiture, (4) Likelihood party failing to perform will cure his failure, and (5) Extent to which behavior of party failing to perform comports with duty of good faith and fair dealing.
Rules with Exceptions

- If A, then B, unless Z.
- Look for “unless,” “except,” “but,” and “but if.”
- Example: Recovery of Property taken via fraud—a person who has been induced by fraudulent misrepresentations to transfer title may recover the property UNLESS the person in possession was a bona-fide purchaser of the property. (You’ll then have to go over what makes someone a BFP.)

Alternative Rules

- If A or B, then Z.
- Look for “either” and “or.”
- Example: Punitive damages may be awarded if the defendant exhibits fraud or malice.
Example: Torts

- Intentional Torts and Negligence
  - Intentional Torts
    - Battery
    - Assault
    - False Imprisonment
    - Intentional Infliction of Emotional Distress
  - Defenses
- Negligence
  - Duty
  - Breach
  - Cause in Fact
  - Proximate / Legal Cause
  - Damages
  - Defenses
Intentional Torts

- Battery
  - Defendant’s acts intentionally cause harmful or offensive contact with the victim’s person.
    - **Harmful contact**: contact which causes physical pain, injury or illness where the risk of harm is one a reasonable person would foresee.
    - **Offensive contact**: contact which offends a person’s reasonable sense of personal dignity, as measure by the objective standard of community norms.
    - **Person**: putting into motion anything that touches another person or putting into motion anything that touches something connected with or in contact with another person.
    - **Causation**: the Δ’s actions must be the direct or indirect cause of the harmful or offensive contact.
    - **Rationale**: Protection from unwanted contact is fundamental; allowing suits for trivial contact prevents self-help measures; legal redress deters wrongful conduct.

Keep adding content. Add hypos and examples. Cases if helpful.
INTENTIONAL TORTS

A. Intentional Torts

1. Battery

**Definition:** Battery occurs when the defendant's act intentionally causes physical contact or offensive contact with the victim's person.

- **Elements:**
  1. The actor must have the specific intent to cause physical contact with the victim.
  2. The contact must be offensive or harmful to the victim.
  3. The victim must have been aware of the contact.

- **Example:** If A intentionally pushes B, B is considered to have been the victim of battery.

2. Assault

- **Definition:** Assault occurs when the defendant causes the victim to reasonably believe that they are about to be subjected to immediate and unlawful physical contact.

- **Elements:**
  1. The actor must make a physical threat.
  2. The victim must reasonably believe the threat.

- **Example:** If A makes a threatening gesture towards B, B may reasonably believe they are about to be assaulted.

3. False Imprisonment

- **Definition:**False imprisonment occurs when the defendant unlawfully confines another person without their consent.

- **Elements:**
  1. The plaintiff must be deprived of their freedom of action.
  2. The confinement must be unlawful.

- **Example:** If A locks B in a room without B's consent, A has committed false imprisonment.

4. Intentional Infliction of Emotional Distress

- **Definition:** Intentional infliction of emotional distress occurs when the defendant intentionally or recklessly inflicts severe emotional distress on another person.

- **Elements:**
  1. The defendant must act with malice or outrageous conduct.
  2. The plaintiff must suffer severe emotional distress.

- **Example:** If A intentionally makes B experience severe emotional distress through cruel and unusual conduct, A has committed intentional infliction of emotional distress.

5. Malicious Prosecution

- **Definition:** Malicious prosecution occurs when the defendant initiates or sponsors a civil or criminal proceeding against another person without probable cause.

- **Elements:**
  1. The defendant must initiate or sponsor the proceeding.
  2. The proceeding must be initiated without probable cause.
  3. The plaintiff must suffer harm or injury as a result of the proceeding.

- **Example:** If A starts a criminal case against B without probable cause, and B suffers harm as a result, A has committed malicious prosecution.

**Note:** This outline is a simplified representation of the legal concepts discussed. It is intended for educational purposes and should not be used as a substitute for professional legal advice.
Example: Contracts

- Offer, Acceptance, Consideration
  - Acceptance
    - By the person intended
  - Means
  - Terms
  - Medium
  - Timing

TYPES OF OUTLINES

Choosing your format

Traditional
- Start here. You can often move from your traditional outline into other formats to increase your understanding.
TYPES OF OUTLINES

Traditional
- Start here. You can often move from your traditional outline into other formats to increase your understanding.

Spatial Organization
<table>
<thead>
<tr>
<th>Spatial Organization Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example 1: Urban Planning</td>
</tr>
<tr>
<td>Example 2: Forest Management</td>
</tr>
<tr>
<td>Example 3: Agricultural Layout</td>
</tr>
<tr>
<td>Example 4: Infrastructure Development</td>
</tr>
<tr>
<td>Example 5: Coastal Management</td>
</tr>
</tbody>
</table>

**All examples include a mix of qualitative and quantitative data, focusing on sustainable and efficient spatial organization.**
SPATIAL EXAMPLE
TYPES OF OUTLINES

Traditional
- Start here. You can often move from your traditional outline into other formats to increase your understanding.

Spatial Organization

Chart
- Con Law
## ELEMENTS OF OFFENSES

<table>
<thead>
<tr>
<th>Offense</th>
<th>CL</th>
<th>MPC</th>
<th>TPC</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Must Be</strong></td>
<td></td>
<td>§ 2.01(21) Not voluntary:</td>
<td>§ 501(a)</td>
</tr>
<tr>
<td>Voluntary</td>
<td></td>
<td>Reflect or causing</td>
<td>Voluntarily</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Usury movement while unconscious</td>
<td>Engages in conduct</td>
</tr>
<tr>
<td></td>
<td></td>
<td>or asleep</td>
<td>Including ect, omission, possession</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Acts while hypnotized</td>
<td>No definition of voluntary</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Not product of effort of the actor</td>
<td></td>
</tr>
<tr>
<td><strong>Possession</strong></td>
<td>§ 2 01</td>
<td>§ 6.01(b)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Knowingly MR</td>
<td>Knowingly MR</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Procured or received AR</td>
<td>Obtains or receives MR</td>
<td></td>
</tr>
<tr>
<td></td>
<td>In terms of laminate possession AC</td>
<td>Thing possessed AC</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Off is aware of control for a sufficient</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>time to permit him to terminate his control AC</td>
<td></td>
</tr>
<tr>
<td><strong>Omission</strong></td>
<td>§ 2.01(1)</td>
<td>§ 6.01(c)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Assumed by bystander rule</td>
<td>Law provides that omission is offense</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Daily witness, IT</td>
<td>or provides D has a duty to act</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Special relationship</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Statute</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Contract</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Voluntary assumption of care</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Creation of peril</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Strict Liability Crime</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>DWI</strong></td>
<td>§ 223.2</td>
<td>§ 49.04</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Trespassary AC</td>
<td>Introduced AC</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Taking AR</td>
<td>While operating AR</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Appropriation AR</td>
<td>Motor vehicle in a public place AC</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1PP of another AC</td>
<td>Penalty - Class B misdemeanor, 60 days</td>
<td></td>
</tr>
<tr>
<td></td>
<td>With intent to permanently</td>
<td>for open container. §49.05 Enhanced</td>
<td></td>
</tr>
<tr>
<td></td>
<td>deprive MR</td>
<td>Offenses and Penalties</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>§ 31.04</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Unlawfully AC</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>-without owner's effective consent:</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Appropriating AR</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Property AC</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Will intent to deprive owner MR</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Penalty - Class C misdemeanor if less</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>than $50, or $50 and bad check, Class D</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>if $50-$500, or $20 and previous bad</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>check, or $50 and previous theft, or</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>$20 and previous bad check, Class A if</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>$500-$1,000. State jail felony, 1st, 2nd,</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>3rd degree SEE STATUTE. Very specific</td>
<td></td>
</tr>
</tbody>
</table>
**CHART (USING FACTOR RULES)**

### Chart 1: Assessing Whether the Invoice Is Material (Rule A)

<table>
<thead>
<tr>
<th>Factor</th>
<th>Materiality Amount Limits</th>
<th>Materiality Limit Exceeded</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Amount of benefit</td>
<td>- Demand exceeded or exceeding party is taking measures to reduce risk</td>
<td>- Consideration should be made</td>
</tr>
<tr>
<td>2) Adequacy of compensation</td>
<td>- Competent cannot be overcome by the contract or common law</td>
<td>- Expense not compensatory for the contract</td>
</tr>
<tr>
<td>3) Importance of benefit for inducing party</td>
<td>- Importance is not insignificant in the contract</td>
<td>- Consideration required to avoid damage to the contract</td>
</tr>
<tr>
<td>4) Importance of benefit to inducing party</td>
<td>- Importance is not insignificant in the contract</td>
<td>- Consideration required to avoid damage to the contract</td>
</tr>
<tr>
<td>5) Relationship of parties</td>
<td>- Relationship is not significant in the contract</td>
<td>- Consideration required to avoid damage to the contract</td>
</tr>
<tr>
<td>6) Proportion of cost</td>
<td>- Proportion of cost is not significant in the contract</td>
<td>- Consideration required to avoid damage to the contract</td>
</tr>
</tbody>
</table>

### Chart 2: Assessing Whether the Invoice Is Material (Rule B)

<table>
<thead>
<tr>
<th>Factor</th>
<th>Materiality Amount Limits</th>
<th>Materiality Limit Exceeded</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Amount of benefit</td>
<td>- Benefit exceeds or exceeding party is taking measures to reduce risk</td>
<td>- Consideration should be made</td>
</tr>
<tr>
<td>2) Adequacy of compensation</td>
<td>- Competent cannot be overcome by the contract or common law</td>
<td>- Expense not compensatory for the contract</td>
</tr>
<tr>
<td>3) Importance of benefit for inducing party</td>
<td>- Importance is not insignificant in the contract</td>
<td>- Consideration required to avoid damage to the contract</td>
</tr>
<tr>
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</tr>
<tr>
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<td>- Consideration required to avoid damage to the contract</td>
</tr>
<tr>
<td>6) Proportion of cost</td>
<td>- Proportion of cost is not significant in the contract</td>
<td>- Consideration required to avoid damage to the contract</td>
</tr>
</tbody>
</table>
TYPES OF OUTLINES

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Spatial Organization

Chart

Checklist
- Almost all classes lend themselves to this method. Creating a checklist can be a fantastic way to make sure you don’t miss any issues. It forces you to consider all topics when looking at a fact pattern.
CHECKLIST

1) Are there any defenses?
   - defenses
   - Males 371, 376
   - Misrepresentation 364
   - Unlawfulness 737
   - Interspacing 12, 928, 114, 13
   - Unreasonableness 2, 292, 298
   - Public policy 276, 299
   - Stated terms 3, 307, 317

2) M 1.1 - O 1.1 (example)
   - insufficient evidence
   - insufficient

3) Is it time for performance?
   - Conditions met, not certain to occur, duty must have been contracted
   - Waiver, 274, 279, 287
   - Modification (consideration for waiver)

4) Is there any unsatisfied use performance?
   - M 2.14, 640, 2-401 - 2-408
   - Unequal 640, 2-408
   - Usefulness 287, 2-415
   - Repossession 287, 2-416, 2-417

5) What remedy, if any?
   - Damages
   - Specific performance
   - Rescission
   - Refund
   - Expectation

Interpretation 300
   - Unconscionability 223
   - Unfair terms 206, 2-306, 2-406
   - novelty provisions
   - Party in existence 223
   - Duty of Good Faith and Fair Dealing
   - § 920
   - § 198
## CHECKLIST (OPEN BOOK EXAM) - USED

<table>
<thead>
<tr>
<th>Defendant</th>
<th>True Defenses</th>
<th>False Defenses</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

- **False Offenses:**
  - Theft
  - Robbery
  - Aggravated Assault
  - Entrapment
  - Imposition
  - Crimes Against Habituation
  - Burglary
  - Arson
  - Crimes Against Person
  - Assault and Battery
  - Kidnapping
  - Sexual assault
  - Rape
  - Aggravated sexual assault
  - Inference
  - Intentional, 1st degree murder
  - Homicide
  - Murder
  - Voluntary Manslaughter
  - Involuntary Manslaughter
TYPES OF OUTLINES

Traditional

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Spatial Organization

Chart

Checklist

Flowchart
Restitution – Preventing Unjust Enrichment

Start here

Has the contract been fully performed?

Y

No restitution. Move to expectation interest.

N

Is the breaching party asking for restitution?

Y

1. Restitution §374. Party in breach receives either fair market value (amount it would cost to have another do the job) of benefit bestowed or extent to which other party’s property has increased in value. FMV can be either at time of contracting or履行 contract. Can’t go with time of contracting.

N

Breaching party only gets the LESSER. Can either get contract or FMV, whichever is lesser. Can never get better than contract.

Breaching party will probably get the lesser of the two amounts. IF FMV is lesser than contract, he’ll get that.

Example: Brann v. Turner. Employee got FMV of his services for the amount of time he worked.

N

§373. When either party is in breach, victim gets value of any benefit bestowed – fair market value of benefit received or amount of increase in value of D’s wealth or property.

Example: Task v. ConSoleID. Paid $5000 deposit for floor. Never received. Would have incurred $2000 loss on sale of floor, but gets entire $5000 back from D as deposit is refundable to D keep $3000 for breach. Expectation is not enough here.
Flow chart

- What kind of interest: Present, Future
- Who holds it?
  - Grantor
  - Grantee
- Under what circumstances is it activated?
  - Possibility of Reverter
  - Right of Re-Entry
- Does it immediately follow a life estate?
  - No
  - Executor interest
  - Yes
  - Remainder
    - Will it inevitably happen?
      - Vested
      - Contingent
        - Vested indefeasibly
        - Vested subject to open
        - Vested subject to divestment
WHAT AN OUTLINE SHOULD NOT BE:

What’s wrong with this?

1. **Rules are buried.**

2. **Focus on case summary without saying why it’s important or what rule it illustrates.**

3. **It’s hard to read. What’s important on this page? Who knows.**

- Choose in outline—intangible property (bank account, elevators, patents)
- Picture—area of subject, but not part of the land

II. The Importance of Possession in Establishing Rights in Property
   A. Abandoned Lost and Misplaced Property
      - Abandoned property—property that has not been recovered, and there is an intention to recover it. Can’t abandon land.
      - Reasonable time to recover depends on the facts.
      - Giving these circumstances, could a reasonable person assume that the owner intended to recover property.
      - 3 types of property
        1. abandoned
        2. lost—own owner has no knowledge of where the property is
        3. misplaced—voluntarily left with an intent to recover it later
      - Distinction between lost and misplaced rests on the assumption that the location can show if it was lost or misplaced.
   B. South Staffordshire Water Co. v. Shuttle—Ownership of lost or abandoned property depends on an actual taking of the property with the intent to reduce it to possession.
   C. Amery v. Delamere—The finder of lost property has a right to keep the property against all but the rightful owner.
      - First at time, first at right
   D. Bridge v. Knowlesworth—P found money in a shop and gave it to shop owner to return to rightful owner. When no one claimed money, court said that the finder of the article was entitled to it, as against all parties except the real owner.
      - Not found within the protection of D’s house.
      - In the public part of the shop.
   E. South Staffordshire Water Co. v. Shuttle—No matter who finds an article on another person’s land, the owner of the land in quo has possession of that article.
   F. McKeown v. Media—The finder of an article intentionally placed somewhere in the shop and left no claim to the property. The owner of the shop should keep it until the rightful owner calls for it.

B. Stolen Property; Unoccupied Property
   A. O’Reilly v. Snyder—O’Reilly is still the rightful owner because the statute of limitations does not begin until discovery of the stolen property.
      - by exercise of reasonable diligence and intelligence should have discovered.
      - Because of the nature of many articles including art, the adverse possession rule is not a fair or reasonable means of resolving this kind of dispute.
      - The meaning of due diligence will vary with the facts of each case, including the nature and value of the personal property.
   B. Adverse Possession
      - Purpose of Adverse Possession
        - To encourage development of land
        - Protection of long-continued claims
OPEN BOOK V. CLOSED BOOK

Closed Book
- Still outline. Remember, it’s the process.
- Focus on concepts.
- Scale it back dramatically before the exam. Read it over and over.
- Make flashcards from your outline.
- Practice exams WITHOUT your outline.

Open Book
- Create a table of contents.
- Tab it carefully.
- Do many practice exams using your outline to get familiar with it.
- Remember that you probably won’t have time to look up a lot of info during the exam; don’t assume that you don’t have to learn the information because you cut and pasted something into an outline.
AT THE END...

Ask yourself:
- What are likely issues for the exam? Have I covered them?
- Do I understand the key problems and issues?
- Do I understand which rules apply when and the policy behind them?
- Are rules clearly stated and usable?
- Can I apply the rule of law to hypos?

Think you’re done?
- Review it
- Distill it down.
- Check for accuracy (professor; study group)

**Do practice exams using the outline**

Remember that your outline should constantly be evolving as you learn the law.

If you have one, use your study group. Test out your rule statements on the group to check for accuracy. Suggest a study group meeting devoted to things members don’t understand.
HOW SHOULD YOU OUTLINE?

Do you know how you learn best?

Go to http://vark-learn.com/the-vark-questionnaire/ and answer the questionnaire.

- The website will tell you what kind of learner you are and offers strategies to help you study.
HELPFUL SOURCES

MICHAEL HUNTER SCHWARTZ, EXPERT LEARNING FOR LAW STUDENTS (2008).


HERBERT N. RAMY, SUCCEEDING IN LAW SCHOOL (2010).