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# Law School

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## Law School Outlining— Why, When and How to do it



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Almost immediately upon starting the first semester as a 1L, the final exam looms large in every law students' mind. And rightly so—after all, this is likely the first time any student has ever dealt with the prospect of an entire semester's worth of work all dependent upon one's performance on a single exam. So it is natural to start worrying about studying for that exam within the first few weeks, or even days, of law school. Whispers of "outlines" will start to circulate among the students, but very few students really understand what a law school course outline entails until they actually begin creating one for themselves. The outline is a valuable tool for every law student, as long as it is done correctly and contains the correct, and relevant, information.

### Why Outline?

In reality, the process of outlining is more important than the outline itself. Through outlining, you are processing everything you have learned in an entire semester, putting it into your own words, ensuring that you really understand it, and condensing it into a usable, summarized document. Understanding your cases and where they fit in to the big picture is an important skill to develop in law school. Every day, you read and prepare your case briefs

for class with the sole intention of understanding the individual case enough that, if you were to get called on, you would be able to answer the questions of the professor. But this practice isn't conducive to understanding the *law*—why are you reading this case? What area of law is it illustrating and how does it fit in with the rest of the course? Outlining helps you to see the forest beyond the trees, and will give you a better understanding of the subject matter of the course as a whole.

### When to Begin Outlining

It might be tempting for the eager law student to begin outlining immediately, but don't start right away. You don't know enough in the first few weeks to create an outline of any substance. Remember the purpose of an outline: to help you organize the course, and see the "big picture"—what law are you learning, and where do all these cases that you read each day fit into that big picture? If you outline too soon, you will end up focusing on individual cases, because that is all you know so far. Individual cases do have a place in an outline, but the focus of your outline needs to be on legal concepts and rules. So, wait until a few weeks, or even a month (but no later!), into your semester. When you finish a big topic, outline that topic. For example, most Torts classes begin with intentional torts. While you might want to jump right in and start your outline immediately after you read your first case on battery, it is probably more helpful to wait until you have finished your unit on intentional torts. Why? Because there are many rules that are common to each intentional tort and outlining after you have finished all of them will help you see where those rules fit into the big picture. For example, several defenses are relevant to many of the intentional torts because they work on a common element of the torts. Dealing with these defenses together, after you have discussed all the intentional torts, will help you see why these defenses apply and what torts they apply to.

However, you don't want to wait too long to get started. A common mistake I see many first semester law students make is to plan to

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wait until Thanksgiving break to outline, and then do one subject per day off from school. This is not a good idea! First of all, you will not be able to finish outlining an entire semester's worth of work for a course in one day. Outlining takes time if done right. Second, there are many other things you should be spending your Thanksgiving "break" doing—aside from spending time with family (who have likely not seen you very much those first few months of school!), at that point in the semester, you will want to spend much of your free time working on practice exams, as well as finishing up your reading and briefing for the semester. Additionally, the longer you wait to start outlining, the less time you have to figure out what it is you *don't* know, and to do something about it before it's too late! For example, if after outlining the causation section of negligence in your torts outline, you realize you really do not understand what proximate causation is, you can go to your professor and ask him or her to help you understand the concept—as long as it is early enough in the semester. Professors are there to help, but you need to be reasonable about when to expect this help. If you wait until a day or two before the final, chances are your professor will not be available to explain a significant concept to you (and chances are it is not really enough time for you to understand it and process it anyway!). But if you visit your professor during regular office hours during the semester, you will ensure that you have enough time to get the explanation you need, from the person who knows it best.

Start your outlines on a weekend, when you can give yourself a large block of time to work on them (four hours per subject is good to start). Once you are caught up with your outlines, you won't need such large blocks of time—a few hours at the end of each week will be sufficient to outline what you have done that week. But in the beginning, you will be gathering and condensing information from several different sources, and that takes time.

Remember that outlines are a tool for studying—but they are not the only "studying" you will need to do. You need to leave yourself plenty of time to work on practice questions, so make sure that you budget your time so that you are finished with your outlines by the last day of classes, and can use any "study days" you have for practicing, not outlining.

### How Should You Outline?

Remembering the purpose that outlines serve—to help you condense and understand a semester's worth of material—will help you develop your own best practices for outlining each course. A good place to start is with a general overview of your course content—either your syllabus or the table of contents in your text book. Use that as the skeleton for your outline, and it will guide you in terms of what substance needs to be filled in. When you sit down for the four-hour block of time that you have dedicated to the outline, bring all of your materials to the table—literally! Have your text book, your class notes, your case briefs, and any hornbooks or study aides you have been using to help you understand the black letter law. As you go through each topic in your skeleton (either the syllabus or table of contents), consult each of these sources. Focus on, and organize by the rule of law, and then use your cases to illustrate the rule of law. Do not organize your outline by cases! It should not be merely a list of every case you have covered in class, with no legal context.

Similarly, do not spend too much of your outline discussing the irrelevant facts of each case. As contradictory as it seems, as you approach finals, the individual cases themselves become less important. More important is the rule of law, and how a court will likely apply that rule to the given hypothetical on your final exam. The cases, therefore, will serve to illustrate to the professor why you think a court would hold a certain way in your final exam fact pattern. That is important to always keep in mind while you are outlining—more important than the facts of the cases you have read in class is the courts' reasoning, because that is what you will use when explaining to your professor why you think a court would come to a similar, or different, outcome on the final. All of the information you painstakingly included in your case brief can—and should—be paraphrased down into a few sentences of legally significant facts and the holding. Also important to include is anything your professor stressed as important while you were reviewing each case—whether it be a dissenting opinion, public policy reasons for the holding, a new hypothetical, etc. If your professor thinks something is important, you should too! It is likely to appear on the exam, which is effectively just one long hypothetical created by the same professor who has been giving you similar hypotheticals all semester.

During this process you will see whether or not you really understand the cases and the rule of law they illustrate. Be sure not to just copy and paste your case briefs into the relevant sections of the outline. The main reason to avoid this shortcut is that your briefs would then contain too much irrelevant information. But just as important, paraphrasing your brief will force you to check your understanding of the case. Your outline for each course should be approximately 25-30 pages long. Remember, it needs to be a helpful tool for studying; any document longer than this will be more cumbersome than helpful. Outlines that are too long almost invariably have too much irrelevant information in their case summaries. Always think about how you would use each case in your analysis on a final exam, and then only include that information in your outline. This is why outlining—if done correctly—takes time, and is not something you can do in a single sitting, or even a single day. It is not an exercise in copying and pasting, it is an exercise in condensing and understanding.

It bears repeating that the process of outlining is more important than the outline itself. That is why it is NEVER a good idea to use someone else's outline instead of creating your own. Students often believe that the outline from a student who got an A in that class the year before is the "magic pill" that will enable them to get an A as well. This could not be farther from the truth, for so many reasons. First, the outline is shorthand—someone *else's* shorthand, which will probably not make sense to you. Second, the outline contains what the professor thought was important—*last year!* Things have changed. Your professor might have stressed different points of view, or even covered different cases than he or she did last year. It is not an accurate representation of what happened in *your* class, and the content of your class is what you will be tested on! Finally, using someone else's outline means you missed out on the most important part of the outlining, which was the process of creating it. Struggling with the material is a necessary step towards understanding it, and it is a step that is skipped entirely when another person's outline is used.

The same holds true for commercial outlines—outlines you can buy in book form or online from commercial publishers. However,

those outlines do have some value, if they are used correctly. A commercial outline is a good first step to helping you understand an area of the law that you might not otherwise fully comprehend from just your materials alone. Don't forget that your professor is the best resource for having your questions answered, but there are times when you just need a little clarification, and a commercial outline might be a good source for supplementing the materials you have.

Some people prefer to outline alone, and some prefer to outline with their study group. Outlining with a study group can be a very effective way of reviewing the materials, so long as it is done correctly. Each member of the study group needs to participate in creating each section of the outline. Some groups will designate one student to type out the outline while they all discuss and work through the materials together, other groups will create one document, such as a Google Doc, which all members can edit at the same time, and each will add to it as they go along. If you do choose to outline with your study group, be sure not to use the "divide and conquer" method—where each member will be assigned an area of the law to outline, and then the individual outlines will be copied and pasted together. That will ensure that each study group member understands one area of the course very well, and the rest of the course not well at all! Make sure each person actively participates in the creation of the entire document.

It is important to note that, while the word "outline" typically brings to mind a very structured document, with Roman Numerals, and capital and lower case letters labeling each section, it doesn't have to be. Traditional outlines work for certain types of learners—those who learn by writing and making lists and can understand things when written out in such a linear format. However, for some people, this does not work. Rather, visual learners might benefit from something in flow chart form. Kinesthetic learners might prefer making flash cards. Keep in mind that the format of the "outline" doesn't matter, so long as it functions like an outline—a way to organize and summarize the law you have learned over an entire semester, so that you have a document(s) from which you can easily study and refer back to. Understanding your learning style will help you choose with method of outlining will work best for you.

Outlining may seem hard and cumbersome once you begin, but it is a necessary skill to be learned and mastered as a law student. Once it is, you will reap the benefits of good outlining practices for the rest of your time in law school.

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