Outlining 101[1]

A law school course outline helps you to organize an area of the law in a way that helps you to understand and remember the law. An outline is simply a logical approach to an area of the law that you will later use to write logically organized examination answers.

Step 1: Identify Legal Concepts

Use your case book, your course syllabus, your class notes, and your case briefs to brainstorm a list of concepts covered in your course. A list from the first few weeks or a Torts course might look like:

Assault	Intentional torts	Battery
Consent	Purpose or knowledge	Necessity
Intent	False imprisonment	Transferred intent
Intentional infliction of emotional distress	Defenses	Causation

Don't worry in this first step about getting the relationships between concepts just right. Let this first step be messy if it needs to be messy.

Step 2: Display the Proper Relationships between Concepts

Once you have a complete list of concepts, you should begin displaying the proper relationships between those concepts. This step is crucial and is all about understanding the hierarchies and relationships between the concepts. This might also be one of the most difficult steps in outlining but you must not skip it. Struggling to identify the hierarchies is key to your learning; it's the kind of deep mental processing that will allow you to really understand and apply the law. Your list of concepts might turn into a first draft of your outline that looks like:

I. Intentional Torts
    A. Prima Facie Case
        1. Act
        2. Intent

[1] This handout draws heavily from the second edition of *Succeeding in Law School* by Herbert N. Ramy as well as *Legal Method and Writing* by Charles R. Calleros.

        a. Transferred Intent
    3. Causation
B. Intentional Torts to the Person
    1. Battery
    2. Assault
    3. False Imprisonment
    4. Intentional Infliction of Emotional Distress
C. Defenses to the Intentional Torts
    1. Consent
    2. Necessity

Step 3: Consider Introductory Sections

As you are displaying the relationships between concepts, consider including an introductory section to each significant section or subsection of the outline. This kind of introductory material can help make the organizational structure of each section or subsection of an outline clear. For example, you might include a brief introduction to the prima facie case for intentional torts that looks like the introduction below.

I. Intentional Torts
    A. Prima Facie Case
        Generally, all intentional torts share the same prima facie case. A plaintiff must prove three elements: (1) act, (2) intent, and (3) causation.
        1. Act
        2. Intent
        3. Causation
    B. Intentional Torts to the Person
        1. Battery
        2. Assault
        3. False Imprisonment
        4. Intentional Infliction of Emotional Distress
    C. Defenses to the Intentional Torts
        1. Consent
        2. Necessity

Step 4: Add the Rules

Now that you have the basic organization of your outline in place, it's time to build that outline out. Start by adding rules. You'll primarily look to the cases and statutes you read for class to identify those rules. But simply relying on your case briefs will not be enough. You should also be relying heavily on your class notes. Relying on both classroom discussion and professor lecture rather than your own individual understanding is key. You may also need to conduct additional research using treatises and visit tutor and professor office hours to clarify your understanding. Your more fully developed transferred intent section might look like:

I. Intentional Torts

A. Prima Facie Case

Generally, all intentional torts share the same prima facie case. A plaintiff must prove three elements: (1) act, (2) intent, and (3) causation.

1. Act
2. Intent

a. **Transferred Intent**. Where the defendant intends to commit a tort against one person but instead:

i. Commits a different tort against that person, or

1. Transferred intent only works where the tort intended and the tort that results are both one of the 5 most common intentional torts:

(a) assault
(b) battery
(c) false imprisonment
(d) trespass to land
(e) trespass to chattels

ii. Commits the intended tort but against a different person, or

iii. Commits a different tort against a different person

3. Causation

B. Intentional Torts to the Person

1. Battery
2. Assault
3. False Imprisonment
4. Intentional Infliction of Emotional Distress

C. Defenses to the Intentional Torts

1. Consent
2. Necessity

Step 5: Add Examples and Non-Examples

While knowing the rules and the relationships between them is necessary to doing well on your exams, it isn't sufficient. Because you'll need to apply the rules to a new set of facts, you need to understand how the rules have been applied in the past. Including both examples and non-examples in your outline will not only help you to better understand the rule but will also help you to effectively apply it to a new set of facts. You could pull examples and non-examples from the cases that you read or the hypotheticals that your professor used in class. But be careful not to go overboard; after all, your outline shouldn't be a compilation of all of your case briefs. Your addition of an example of transferred intent into your outline might look like:

I. Intentional Torts

A. Prima Facie Case

Generally, all intentional torts share the same prima facie case. A plaintiff must prove three elements: (1) act, (2) intent, and (3) causation.

1. Act
2. Intent

a. **Transferred Intent**. Where the defendant intends to commit a tort against one person but instead:

i. Commits a different tort against that person, or

1. Transferred intent only works where the tort intended and the tort that results are both one of the 5 most common intentional torts:

(a) assault
(b) battery
(c) false imprisonment
(d) trespass to land
(e) trespass to chattels

ii. Commits the intended tort but against a different person, or

Ex./ *Talmage v. Smith*—Defendant throws stick at Boy A. Stick misses Boy A and hits Boy B, who Defendant never saw. Defendant still liable because intent to hit one person in crowd transferred to actual victim.

iii. Commits a different tort against a different person

3. Causation

B. Intentional Torts to the Person

1. Battery
2. Assault
3. False Imprisonment
4. Intentional Infliction of Emotional Distress

C. Defenses to the Intentional Torts
    1. Consent
    2. Necessity

Step 6: Add Policy Considerations

Depending on the particular course and professor, you may also want to add notes about the public policies behind the rules. In some classes and for some professors, policy plays an important role. And it can be key in understanding and applying a rule.

Step 7: Edit Continuously

You should typically begin your outlines by the second or third week of school and spend time each week incorporating the week's materials into your outline. Inevitably as you do this and your understanding of the subject matter grows, you'll need to edit your outline. That's the process of learning the law. Plan to edit continuously right up until the time you start studying for the exam.