UPCOMING APD EVENTS

• Workshops – Fridays 12:00 - 12:55
  o 9/27 Exam-Taking Strategies I
  o 10/18 Exam Taking Strategies II
  o 10/25 Professors on Exams

All sessions are filmed and posted online at law.scu.edu/apd.

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UPCOMING APD EVENTS

• Bar Fair Week – 9/23 to 9/27
  o Meet various large and small Bar vendors
  o Be a smart shopper
  o You don’t need to commit now

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PRACTICE EXAM SESSIONS

• APD will host a series of practice exams on Saturdays, starting on October 19 and continuing through the beginning of November.

• Taking practice exams is an exercise that helps train you for your actual exams in December.

• When the schedule is published, put all the dates in your calendar. Our data shows that students who take more practice exams, do better on their actual exams.

• Don’t hide behind “I’m not ready.”

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WHAT ARE THE GOALS FOR THIS SESSION?

I. Understand the importance of outlining in law school

II. Learn how to approach outlining
WHY OUTLINE?

1) Understand the law
2) Memorize the law
   • Distills information – less to memorize
   • Creates structure – easier to memorize
     o LLWAEHTEIVO
     o ILOVETHELAW
3) Provide tool for answering exam questions

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YOUR TASK ON AN EXAM:

• Spotting the major and minor legal issues.

• Recalling precisely and understanding the relevant legal rules.

• **Applying those rules to the facts** given to reach a well-supported conclusion.

• And expressing yourself clearly while doing all that.

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THAT’S WHAT AN OUTLINE PREPARES YOU FOR:

• A thorough, structured list of all major and minor legal issues.

• Each issue contains the relevant legal rules, including elements, exceptions, and tests.

• Selective case examples, hypos, and policy arguments showing you how to apply those rules to potential fact patterns.
WHEN SHOULD YOU OUTLINE?

• Continuously: Collect raw materials

• Periodically: Outline topics as soon as they have been completed

• Remember what we said last time, and the mini-outlining you’ve been practicing in ASP?
EARLY OUTLINING

Early outlining is reorganizing the knowledge gained from reading, briefing, and in-class learning in a way that will help you answer exam questions (and better understand the material for class.)

Early outlining is done after learning each concept or area of the law.
WHAT IS THE PROCESS OF OUTLINING?

- Collect all course material
- Prepare and refine a “Course Outline”
- Condense the Course Outline to an “Exam Approach Outline” (1-3 pages)

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COLLECTING MATERIAL

• Amass all information learned in the course in an organized fashion
• What’s included:

Discussion of cases
Rules of Law
History of Law
Policy arguments
Professor’s hypos
Professor’s tips

Class notes
Case briefs, notes
Supp. materials
Your questions & comments
BRIEF WORD ABOUT SUPPLEMENTS

• Primers: Elementary explanation covering basics of subject area. Helpful for a straightforward, simplistic explanation of an area of law. Examples and Explanations Nutshell Series

• Hornbooks or Treatises: Books covering in detail the principles of a body of law. Often helpful to review for context before reading cases. Get suggestions from your professors

• Commercial Outlines: Helpful for organization and rule clarification. Gilberts Emanuel’s and CrunchTime Bar Outlines from Barbri, Kaplan, Themis, etc.

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COURSE OUTLINE

Purpose: To distill and synthesize all course materials into clear and concise statements organized in a way that mirrors how you will use the information on your exam

Issue
Rule
Analysis

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HOW TO FIND THE ISSUES

Three ways to identify the issues to begin framing your outline:

• Syllabus
• Syllabus + Table of Contents
• Supplemental Source + Table of Contents
II. Intentional Torts

A. Introduction to Intentional Torts: Assault, Battery and Intentional Infliction of Emotional Distress
   Text pp. 641-651 (Dickens v. Puryear)

B. The Meaning of Intent

C. Assault and Battery Problems
   Text, pp. 664-668

D. Intentional Infliction of Emotional Distress in Discrimination Cases
   Text, pp. 668-685 (Brandon, Alcorn v. Anbro, Swenson v. Northern Crop)
   Chart, pp. 686

E. Trespass to Chattels and Conversion
   Text, pp. 694-702 (Arora)

C. Privileges and Defenses

1. Consent
   Text, pp. 702-710 (Hogan v. Tavzel, Hellriegel v. Tholl, Reavis)
   Consent problems, pp. 710-711

2. Self-Defense and Defense of Others
Chapter 2: The Negligence Principle

1. pp. 30, 39-60  ⇐ The Standard of Care/The Reasonable Person
2. pp. 69-85  ⇐ The Role of Custom/Statutes
3. pp. 85-99  ⇐ Proof of Negligence
4. pp. 115-119, 99-106  ⇐ Medical Malpractice/Proof of Negligence
5. pp. 106-115, 119-128  ⇐ Medical Malpractice

Chapter 3: The Duty Requirement: Physical Injuries

6. pp. 129-142  ⇐ Affirmative Obligations to Act
7. pp. 142-161, 165-168 (Notes 4, 8, 10 only)  ⇐ Affirmative Obligations to Act
8. pp. 168-188  ⇐ Policy Bases for Invoking No Duty
9. pp. 188-203  ⇐ Duties of Landowners and Occupiers
10. pp. 203-217  ⇐ Duties of Landowners and Occupiers
11. pp. 227-249  ⇐ Government Entities
Use a supplemental source, such as a commercial outline, along with the table of contents from your book, to build your own issues framework. (In addition to providing you with a basic structure for your outline, you will also build your own sense of how the seemingly discrete pieces of your course fit together.)

I. INTENTIONAL TORTS  ← textbook pp. 898-903
   A. Assault  ← textbook pp. 904-910
   B. Battery  ← textbook pp. 904-910
   C. False Imprisonment  ← textbook pp. 911-917
   D. Intentional Infliction of Emotional Distress  ← textbook pp. 918-937
   E. Trespass to chattels/Conversion  ← textbook pp. 938-944
   F. Trespass to land/Nuisance  ← textbook pp. 674-709
   G. Defenses – Consent, Defensive force, Necessity  ← textbook pp. 945-962

II. DEFAMATION/INVASION OF PRIVACY
   A. Defamation  ← Professor X’s Defamation flowchart from class on Nov. 3
      1. Defamatory Statement  ← textbook pp. 985-998
      2. Of and concerning plaintiff  ← textbook pp. 999-1000
      3. Publication  ← textbook pp. 1001???
      4. Damages  ← textbook pp. 1002-1008
      5. Defenses  ← textbook pp. 1009-1039
      6. Constitutional issues  ← textbook pp. 1040-11-33
SAMPLE ISSUES FRAMEWORK FOR TORTS

I. INTENTIONAL TORTS

II. NEGLIGENCE

III. STRICT LIABILITY (partial description)
   a. ABNORMALLY DANGEROUS ACTIVITY
   b. CAUSATION
   c. DAMAGES
   d. DEFENSES

IV. PRODUCTS LIABILITY
RULES COME FROM CASES AND CLASS

DISCUSSION:

*From last time:* Those rules [from cases and class] are the same rules you’ll apply on an exam. An exam fact pattern is just like the statement of facts at the beginning of a case [or a hypo in class]; a good exam answer applies the correct rules to new facts using reasoning similar to that employed in cases you’re reading.
FINDING THE BASIC RULES

Law comes from multiple sources:

1. Texts of constitutions, statutes, regulations (and cases that interpret them)

2. Common law (judge announced law via opinions)

*Compare*: Model rules, Restatements, hornbook texts

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RULE STATEMENTS

• For every issue, find the rule(s) from each of the sources you have identified

• Create a concise rule statement, that may be memorized and used on an exam

“If this rule came up on an exam question, what should I write and why?”

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RULE ELABORATION

• Do you know all of the elements, factors, etc. related to the rule?
• Do you understand how cases have further explained the meaning of the rule?
• Do you understand how cases illuminate the application of the rule?
• Do you know the rationale behind the rule so you will be able to discuss how and why the rule might be applied in a different fact pattern?

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III. STRICT LIABILITY (partial description)
   a. ABNORMALLY DANGEROUS ACTIVITY
      • Rule Statement
      • Elaboration on elements, factors, and tests
      • Relevant case and hypo examples to demonstrate how the rule is applied
      • Rationale and policy behind the rule
   b. CAUSATION
   c. DAMAGES
   d. DEFENSES
READ THE EXAM QUESTION HANDOUT.

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WHAT ARE THE POSSIBLE ISSUES HERE?

- Negligence
- Strict Liability for an abnormally dangerous activity
ISSUES STATED IN EXAM ANSWER:

Peter’s father could bring a claim against PLC under both strict liability for an abnormally dangerous activity and negligence.

I. Strict Liability

II. Negligence
WHAT IS THE RULE FOR ABNORMALLY DANGEROUS ACTIVITIES?

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Under strict liability, a defendant may be held liable regardless of defendant’s intent or negligence. Peter’s father could bring a claim against PLC for carrying out an abnormally dangerous activity. Under the Second Restatement there are six factors to be considered in determining whether an activity is abnormally dangerous: 1) Existence of a high degree of risk; 2) Risk of serious harm; 3) Inability to eliminate risk even with reasonable care; 4) Activity is not a matter of common usage; 5) Appropriateness of activity to location; and 6) Value to the community.
ADDITION TO RULE:

In general, several of the factors will be required to establish strict liability, although not all of them must be present especially if others weigh heavily.
EXAM ANALYSIS

What is analysis on law school exams?

• Apply rule to relevant facts (weave law and facts – “because…”)
• Analogize and distinguish cases where appropriate
• Discuss rule rationale/policy where appropriate
USING YOUR OUTLINE FOR ANALYSIS.

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COMMON OUTLINING QUESTIONS

• My structure is a little bit different.
• Where do I list all of the cases?  -OR-  Where do I put all my briefs?
• How do I know if I’m doing it right?
• This is so much work, can’t I just use someone else’s outline?
• Is there a different way to do this if I have a different learning style?

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WHAT NOW?

- Assemble course material daily or weekly
- Outline after each unit
- **Test your course outline by doing practice problems**
- Add to Exam Approach outline after each unit
- Consider graphic organizing as an outlining tool
GRAPHIC ORGANIZERS

1. Hierarchy Charts
2. Flow Charts
3. Comparison Charts
4. Mind Maps
5. Timelines
6. Venn Diagrams
7. Pictograms

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HIERARCHY CHARTS

Torts
  
Intentional Torts
    
Against People
      
Int. Infliction of Emotional Distress
    
Battery
  
Against Property
    
Assault
    
Fraud

Negligence

Adapted from Michael Hunter Schwartz, Expert Learning. Not to be used for substantive accuracy.
Defendant (D) engaged in muscular movement?

YES

Epileptic convulsion, D asleep, or movement not otherwise exercise of D's will?

NO

Harmful or offensive contact resulted?

YES

D intended to cause harmful or offensive contact?

Battery

YES
<table>
<thead>
<tr>
<th>Case Name</th>
<th>Facts</th>
<th>Knowingly</th>
</tr>
</thead>
<tbody>
<tr>
<td>State v. Smith (Ohio Ct App. 1973)</td>
<td>Two unarmed teenagers entered the home of one of the their friends.</td>
<td>Yes. Knew it was dwelling of another; they knew it was the friend’s house.</td>
</tr>
<tr>
<td>State v. Jones (Ohio S.Ct. 1985)</td>
<td>Armed men entered vacation home of their acquaintances.</td>
<td>Yes. Knew it was dwelling of another; they knew home belonged to acquaintances and often stayed there for long periods of time.</td>
</tr>
<tr>
<td>State v. Green (Ohio Ct. App. 2000)</td>
<td>Unarmed man entered home; did not know whose home it was.</td>
<td>No. Did not know it was dwelling of another; he thought it was abandoned (no one appeared to have lived there for 8 months)</td>
</tr>
</tbody>
</table>
## BURGLARY – ELEMENT OF ENTERS “KNOWINGLY”

<table>
<thead>
<tr>
<th>YES --- “knowingly”</th>
<th>NO ----“knowingly”</th>
</tr>
</thead>
<tbody>
<tr>
<td>Two unarmed teenagers entered home of friend – knew it was his home. State v. Smith (Ohio Ct App 1973)</td>
<td>Unarmed man entered home; did not know whose home it was. Thought it was abandoned (no one appeared to have lived there for 8 months). State v. Green (Ohio Ct. App. 2000)</td>
</tr>
<tr>
<td>Armed men entered vacation home of their acquaintances. Knew home belonged to acquaintances and often stayed there for long periods of time. State v. Jones (Ohio S.Ct. 1985)</td>
<td></td>
</tr>
</tbody>
</table>
Definition of Burglary

Breaking
- W/any part of body
- W/tool, if used for crime

Entering

Between sunrise & sunset

Insufficient Light to discern face

Nighttime

Intent

Dwelling House

Of Another

Includes “curtilage”

Adapted from Michael Hunter Schwartz, *Expert Learning*. Not to be used for substantive accuracy.
TIMELINES AND VENN DIAGRAMS

Timelines
- Showing historical progression of cases
- Mapping decisions by particular justices.

Venn diagrams
Federal Diversity Jurisdiction

Parties are diverse + Amount in controversy exceeds $75K = Federal Ct. has jurisdiction
Preliminary Injunction: Balancing Factors

- Strength of party’s claim
  - Hardship if relief denied or granted?
  - Hardship compensable in $?
- Morality of Parties’ conduct
- Practicality
- Public Policy
TOOL FOR CREATING GRAPHIC ORGANIZERS

- PowerPoint – http://office.microsoft.com/
  MS Office is available at a discount from SCU
  It’s free!
- Inspiration – http://www.inspiration.com/inspiration
- OmniGraffle –
  http://www.omnigroup.com/products/omnigraffle/
- Paper and markers

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TEST DRIVE YOUR OUTLINE AND GRAPHIC ORGANIZERS

• Level 1: Examples and Explanations; Cali Lessons

• Level 2: LexisNexis Question and Answer Series; Siegel’s Series by Aspen; Sum and Substance Quick Review

• Level 3: Practice Exams – APD practice exams; your professors; Claranet; California Bar Exam questions

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