

INTRODUCTION TO LAW SCHOOL STUDYING: FROM CLASS PREPARATION TO EXAM TAKING

**2005 ACADEMIC ORIENTATION FOR INCOMING STUDENTS
REGENT UNIVERSITY SCHOOL OF LAW
AUGUST 15-17, 2005**

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GENERAL STUDY PRINCIPLES

I. You're not in college anymore . . .

- Breadth of coverage of material
- Inductive case method approach to learning
- Testing on application of material

Consider the following quotation about law school testing:

“[F]orget about law for a moment. Assume instead that you are taking a graduate course in engineering and that you have spent the semester studying the properties of various building materials and a host of theories of design. You have dedicated virtually every waking moment to the course. You have read and re-read every assignment and taken copious notes; you have come to each class session meticulously well-prepared; you have taken down almost every word the instructor has uttered; you have saved and annotated every handout; and—during the two weeks before the final exam—you have organized and reorganized and outlined and committed everything to memory with such success that, in the highly unlikely event that someone besides a classmate were to ask you to explain the differing properties of (say) plastic vs. glass, you could quickly rattle off everything that could possibly be said on the subject.

“You enter the room for the final examination, and the proctor presents you with a large box containing a seemingly random assortment of materials of the sort studied in the course. On the blackboard, the proctor writes the following instructions: ‘Using the materials in the box before you, design and construct a widget according to the principles we studied in the course’. (Unlike law students, engineering students know exactly what widgets look like!) Confronted with this daunting task, you would no doubt find the mass of information you have mastered in preparation for the exam helpful—indeed crucial. But you would obviously be making a serious mistake if you left the contents of the box untouched and proceeded instead to compose an essay on the fundamentals of materials and design and to submit it for the grade. The point of the exercise is not, after all, to regurgitate what you know, but to use what you know on what you happen to find inside the box.”

(Richard Michael Fischl & Jeremy Paul, *Getting to Maybe: How to Excel on law School Exams* 4-5 (1999))

II. Take an active role in studying.

III. Develop a strategy for studying.

A. Know your learning style.

You will take a learning style inventory during orientation. This inventory will give you one way to assess your learning style. Another common way to gauge your style is based on these three primary styles—

1. Auditory—Auditory learners learn best through any technique that provides for the oral dissemination of information, such as listening to lecture tapes, participating in formal discussion groups (where the agenda is set and one student teaches a particular topic), and engaging in independent learning (where you listen to an internal running commentary).
2. Visual—Visual learners learn best through strategies that emphasize visual elements and are informal in setting, such as developing visual flow charts on a particular topic and participating in informal discussion groups in which students tackle a problem together.
3. Tactile/Tactual—Tactile learners learn best by doing, such as by questioning themselves and by developing and taking mock quizzes and practice exams. (This learning style is the one that is perhaps most neglected in law school.)

B. Survey suggested law school strategies.

Many sources will tell you that there is one specific studying strategy that will work for all students all the time. This is not true. You will need to reflect upon your learning style, class schedule, and other factors to consider developing what works for you. That said, I highly recommend that any specific strategy you adopt follow this general three-step process:

1) Distillation

- Purpose:
To distill the course information to its essence by condensing the information into concepts, nuggets, or puzzle pieces that you will use to build the bigger picture later.
- Tactics:
 - 1) active reading (auditory and visual)
 - 2) case briefing (visual and tactile)
 - 3) listening (auditory) and taking notes (visual and tactile) in class.

2) Assimilation

- Purpose:
To put the pieces from the distillation process together to enable you to see the connections between concepts and therefore give you an understanding of the course as a whole.
- Tactics:
 - 1) outlining
 - 2) flow charting
 - 3) study groups
 - 4) commercial study aids (where appropriate)

3) Application

- Purpose:
To learn to apply the course information in a way that demonstrates an understanding of how the concepts are used to resolve legal problems.
- Tactics:
 - 1) answering sample questions (multiple-choice and essay)
 - 2) discussing problems in study groups
 - 3) using flash cards or other aids to facilitate your ability to work with the information, not just memorize it

STEP 1: DISTILLATION

We will begin our discussion of studying in law school by analyzing the first step in the study strategy: distillation. Distillation involves all the activities you do to help you discern the core rules of law and principles of legal reasoning that you need to master from your class preparation and class attendance.

CLASS PREPARATION

I. Adequate class preparation is a must in law school.

II. Tips for class preparation

- Prepare to read
- Obtain a context for the upcoming assignment.
Look at your class syllabus and casebook table of contents. *Think: Under what general topic heading does this case/assignment fit?*
- Actively read your assignment and brief every case.

1. Survey. Skim the reading (if possible) by focusing on section headings and topic sentences. Mark the case sections if possible. Many judicial opinions follow the pattern of:

- 1) Introduction (issue statement)
- 2) Facts (factual background prior to filing suit)
- 3) Procedural history (including parties' claims and evidence developed during discovery and trial)
- 4) Statement of relevant rules and precedent
- 5) Analysis or application of rules to the relevant facts (providing the rationale for the holding)
- 6) Holding/Conclusion (decision as to who won and what happens next)

2. Question.

Think: Before you read—Why am I reading this case? What concept/rule is it supposed to illustrate? (Remember the context for the case.)

During—What does this case tell me about the broad legal issue? What is/are the rule[s] of law from this case? Does the case divide the rule into elements or factors? What are the key reasons/facts/policies upon which the court relied in reaching its holding? How does the information from this opinion fit into the components in my brief?

After—Why is this case included in this section? Does this case state a general rule? further explain an element of that rule? provide an exception to that rule? reject an old rule? or was it wrongly decided? How does this case relate other cases we have read in this class?

3. Read. Read thoroughly and actively by underlining or highlighting key words and phrases, using an asterisk or sign to indicate an important definition or rule of law, key analytical points, or the court’s reasoning. For example, you can annotate the case by using an “F” for facts, an “I” for issue, an “R” for rule, and so on. These marks help you quickly identify important points in the case so that your briefing and review of the case can go more smoothly. *Don’t worry about marking everything when you read a case through the first time; you will essentially be re-reading it as you read it through a second time when you prepare your brief.* Make sure that you re-read confusing portions of the case, but try to concentrate so that you can avoid reading an entire case through more than two times. Also, look up unknown terms as you reach them. *Black’s Law Dictionary* is a helpful in this regard. (If you find that you are looking up many words, take heart. As your law school studies progress and your vocabulary grows, you will need to look up fewer and fewer words.) Finally, avoid highlighting too much. Marking nearly every word defeats the purpose of “highlighting” and can lull you into a false sense that you understand more than you do.

4. wRite. After your first read-through, go back and review the case/reading again to complete your brief for the case or to jot down key points from the reading. (Case briefing is discussed in detail below.)

5. Remember. During your reading session, use memory techniques to buttress your remembrance of the material. Specific techniques include: (1) repetition/recitation (best for auditory learners and for remembering information that is not very detailed); (2) mnemonics (best for auditory and tactile learners and for remembering detailed information); (3) graphic organizers (best for visual learners and for remembering highly detailed information).

6. Review. At the end of your study session, consider reviewing all the material you read during that session.

- **Review briefs and notes from reading (and previous class notes, if possible) right before class.**

CASE BRIEFING

What is case “briefing”?

“Briefing” is the process by which you summarize and analyze on paper the key elements of a case you are reading. It is one of the most important aspects of writing as you read your assignments in law school. Much has been written on case briefing, and different sources and professors recommend slightly different briefing formats. Do not be frustrated by these differences. The *process* of preparing the brief, as opposed to the format of the brief itself, provides the primary benefit.

Why should I brief?

- Briefing helps you focus on key ideas, compare one case to another, organize your analysis, and review your materials (Glessner-Fines).
- Briefing creates case summaries that should serve as the skeletal framework for the class and therefore be your most valuable resource when outlining for the final exam.
- Briefing enables you to practice *writing* in a format that will prepare you for answering essay questions on a law school exam (Stropus & Taylor) and that will help you in your future law practice (Tonsing).
- Briefing provides a self-assessment tool that can help you monitor your understanding of the legal concept being discussed (Bateman).

A Sample Briefing Format

As noted above, different sources and professors often tout different briefing formats. I recommend the following format because I believe it is appropriately detailed (not too long or too short) and because it forces students to focus on the “big picture” issues as they brief a particular case.

In completing the sections of your brief, be concise but not conclusory. The following format is contained on the sample briefing page at the end of these materials. You may find it difficult at first to brief a case in one page. As you progress, however, you will find that you often can include all the relevant information in a one-page case brief.

Course & Class Date: These sections are important in helping you organize your briefs with your other course information. As many upper class students will tell you, you will feel inundated with information if you do not organize your law school course material!

Concept: Although most sources do not include a “concept” section in their briefing formats, I believe that this section is very important because it will help you link cases together as you begin to outline your course. As noted, you must understand the context of a particular case; otherwise you can lose sight of the larger import of why you are reading the case in the first place. By identifying the legal concept (or topic) to which the case pertains, you can help yourself both focus your thoughts before you read and organize your briefs after you read. Use your class syllabus or

table of contents to help you determine to what “concept” the case pertains.

Case Name & Citation: Include the citation of the case because the particular court and date of decision determine how much weight you should afford a case.

Book & Page: Include the page number from your book in case you need to refer to the case later.

Facts: In writing their first briefs, many students get bogged down in completing this section. The point here is not to recite all the facts in the case; rather, the point is to summarize and highlight the *legally relevant* facts that pertain to the legal issue in question. The legally relevant facts are those that are important to the court in deciding the case and those that explain what brought the parties to this dispute. Your “Facts” section thus should focus on the *pivotal* facts that the court ultimately relied upon in its reasoning. In turn, your “Facts” and “Analysis” sections should focus on the same facts.

Because you may not know which facts are relevant until *after* you read the case once through, I recommend completing this section (and your brief overall) after you have already read the case once. You should strive to summarize the relevant facts in chronological order, and drawing diagrams may be helpful in laying out the facts.

Procedural History: Students also tend to agonize over completing this section of their brief; avoid getting bogged down in the nuances of the procedural history. The point is to describe simply who won in the lower court and based on what reasoning. Some professors will question you about this history in class, but it is only relevant in terms of exam preparation when it explains aspects of a court’s reasoning (for example, why the court did not address a particular point). For courses other than Civil Procedure, you will not be tested on your knowledge of what happened in previous proceedings. The case before you—not the decision below—represents the black letter law.

Issue(s): In this section, you should “state the problem that the court has been asked to solve” (Stropus & Taylor). Usually, you can phrase the issue in a manner that asks either “what is the law?” (e.g., which legal rule should the court adopt? or which interpretation of the rule should the court adopt?) or “how does the law apply to these facts?” (e.g., should these facts be framed in a way as to come under the rule or not?) (Glessner-Fines).

Do not be too general or too specific. For instance, “Was the defendant liable?” is way too general of an issue statement. Phrase your issue in a way that links the forthcoming rule from the case to the relevant facts

but is not so specific that the issue cannot be analogized to other cases and situations. Sometimes you can use the different arguments from the parties in the case to help you phrase your issue section. For multiple issue cases, track the discrete issue, if possible, in your rule and analysis sections.

Rule(s):

In the course of its opinion, a court discusses many legal “rules.” Many of those rules, however, are not the pivotal rules in the case; they serve as background information that leads the court to the central rules it is going to discuss and apply. Do not include these background rules in the “rules” section of your brief. Rather, focus on the “rules of the case”; that is, the rules the court used to resolve your “issue” in the case.

Be sure to write the rules accurately in your brief; avoid paraphrasing rules that you do not fully understand. The significance of a legal rule is often in the details, and changing one important word in a rule can considerably alter its meaning.

Think: What are rules and “tests” (elements of that rule) that the court announced and/or applied in this case?

Analysis:

The analysis section (also called the “application” or “rationale” section) is the central part of the opinion and should be a key component of your brief. This section is called “analysis” because it should parallel the way you are to think in completing your analysis in the IRAC format on the exam. (More on IRAC later!) In this section, you should seek to set out the logical steps in the court’s analysis and include the relevant facts that the court used in reaching its decision. Specifically, if the case came up with a new rule, focus on how the court supported its conclusion by analyzing precedent and public policy. If the case applied an existing rule, concentrate on how the court applied the rule to the facts in the case. (Again, this application is similar to how you will perform analysis on an exam.)

Conclusion/Holding:

This section states simply which party won, why (based on what rule), and what is going to happen next (e.g., did the court send the case back to the trial court for further consideration). This section is often called the “holding” of the court, but I recommend thinking of it as the court’s conclusion because it parallels the conclusion you are to reach when you write an exam answer.

Connections to Other

Cases/Larger Concept: As noted above, case briefing helps you craft a puzzle piece for each case that you will, in turn, fit together to form the larger picture of the course. To be a good “piece,” the brief must have prongs that can be fitted together with other cases. To develop those prongs, you should include in your brief a section on how the case relates to other cases

you've read. Does this case announce a general rule? Does it discuss a particular element of a rule announced in another case? Does it extend a rule announced in another case? Does this case develop an exception to a rule announced in another case? Taking time to answer these questions in your brief can save you considerable time later when you try to compare and contrast the cases you've read in forming your course outline.

Think: How is my briefing process helping me prepare my outline? Do I have components in my brief that help me identify the "larger" picture?

Notes: Use this section to add your personal thoughts on the case. Do you agree with the holding? It is consistent with other cases you've read? Why did the professor assign this case? How might it be tested (e.g., how might the facts be slightly changed so that the analysis would be different)? You may also include notes from class in this section.

READING AND INTERPRETING STATUTES

I. When reading a statute, consider "briefing" it.

Analyze and take notes on a statute when you confront it for the first time in a course. Even though statutes are often broken down into sections and subsections, they are often still difficult to read. One subsection, for instance, may contain several elements. You may therefore need to break statutes down into readily understandable sections so that you can see the statutes' different "tests" and components. Your "brief" of the statute need not contain any particular section headings (as in a case brief); rather, it should track and organize the statute's sections in a way that makes it easy to understand and apply.

II. Methods of Statutory Interpretation.

When you are called to interpret a provision in a statute, a court in your jurisdiction may have already interpreted that provision, and that interpretation is binding on you. When no binding precedent applies, however, you can look to how courts in other jurisdictions have interpreted similar statutes. In addition, the following general methods apply to statutory interpretation.

1. Plain Meaning Rule. This approach provides that interpreters must "follow the letter of the law, that is, the words chosen by the legislature."
2. Purpose Approach. The goal of this approach is to "ascertain and then give meaning to the legislative purpose in enacting the statute, that is, to respect legislative intent." Other than by the language of the statute, legislative intent may be deduced by analyzing the statute's purpose statement, its legislative history, its "legal context" (e.g., amendments), its public policy context, and its "paradigm case." One variation of this approach is that when a statute aims to cure a defect in the law, any ambiguity is to be resolved to favor that aim.

3. Golden Rule. This approach instructs interpreters “not to honor the wording of a statute when it produces an absurd or unreasonable result, calls for an impossible outcome, or yields an unconstitutional result.”

III. **Canons of Statutory Construction**

1. Defined, common, and technical meaning. If words are defined in the statute, they carry that meaning for purposes of interpreting the statute. In other cases, one respects the context of words by interpreting words as carrying their everyday meaning or, when the context suggests it, their technical meaning. (A variation of this canon is the “literal rule,” which provides that words that are reasonably capable of only one meaning must carry that meaning whatever the result.)
2. “Of the same class.” General catch-all terms at the end of a list refer to items of the same class as the listed items. The catch-all term does not substantively expand the list beyond its class.
3. “Expression of one excludes others.” When the legislature included a list of terms but did not include a catch-all term or the specific term at issue, that term is excluded.
4. Specific prevails over general. When a conflict arises between a specific section and a general one, the specific one prevails.
5. Later prevails over earlier. Later enacted provisions prevail over earlier ones.
6. Effectiveness of all the words in a statute. All statutory language is intended to communicate some meaning. Therefore, language that could be interpreted as adding nothing should be construed as adding some meaning to the statute.
7. “Of the same matter.” When two or more statutes relate to the same matter, they must be construed together. Consistency is presumed. (In applying this canon, one might therefore carry the meaning of a word from one statute to the use of that word in another.)
8. Avoiding inconsistencies. A statute must be construed as a whole so that internal inconsistencies are avoided.

The quoted portions and much of the substance of this section were taken from Synthesis: Legal Reading, Reasoning, and Writing by Deborah A. Schmedemann and Christina L. Kunz (New York: Aspen Law & Business, 1999). Additional substance was taken from the Oxford Concise Dictionary of Law.

HOW TO MAXIMIZE CLASS TIME

Don’t slack off in class just because you were diligent in preparing beforehand. Concentrate in class so that you can supplement and crystallize the knowledge you gained from your preparation. Specific tips include:

- DO take notes.
- In deciding whether to take class notes on a laptop, consider: (1) whether you absorb information when you type it as well as you do when you write it; (2) whether computer limitations in free handing visuals (like diagrams) will problematically frustrate your notetaking performance; and (3) whether typing improves or does not decrease your ability to record the relevant class material.
- Listen carefully to the information given at the beginning and end of class.

- Have your brief on hand to edit during class.
- Pay attention to how comments made during class fit into the FIRAC (facts-issue-rule-analysis-conclusion (Stropus & Taylor)) categories. That method to help you discern relevant from irrelevant information.
- “Treat every question as if it is asked of you” (Tonsing).
- ALWAYS record your professor’s hypotheticals and examples.
- Note any distinctions the professor emphasizes between cases or concepts.
- Write down student comments when the professor follows that comment by a statement such as “good point.” Remember that, through questioning students, the professor may use students to “teach” the material.
- Keep alert for points that your professor emphasizes.
- Write down relevant legal terms and be sure you understand their meaning.
- Ask questions during or after class, and write down the questions you have during class (even if you never ask the professor about them).

WHAT TO DO AFTER CLASS (PRE-OUTLINE)

- DO NOT rewrite your notes after class. Instead, review and edit your notes as soon as possible after class to make sure you understand them. Do so that day if possible.
- Fill in missing points or misunderstood terms or concepts in your case briefs (if you did not do this during class).
- Reflect on the “take home message” from the class.
- If you have time, read cases or materials referred to (but not necessarily assigned) by your professor during class.

TIME MANAGEMENT

Tips on Practicing Good Time Management

Try following the five steps in allocating your time:

- I. Block out your class times on a weekly calendar.**
- II. Add in your “God Time”; make such time a priority (Psalm 119:9-16).**
- III. Add in time for your personal needs and responsibilities that are inflexible in time, like work commitments and family time.**
- IV. Schedule your study time.**
 1. BE REALISTIC! You will need to devote approximately three hours preparing for every one hour of class time. Include at least that amount of study time in your schedule. Overall, however, remember to be realistic in budgeting how much time you will be able to devote to studying. Creating a schedule will not help if you never stick to it.
 2. Use blocks of one hour or more for reading class assignments and briefing cases.

3. Reserve larger blocks of time (perhaps on weekends) for writing assignments, outlining, and other review work.
4. Consider allocating specific times for studying specific classes.
5. If possible, allocate small blocks of time for “mini-reviews” before and after each class.
6. Be efficient with your study time.
 - Don’t do reading assignments too far in advance of class.
 - If possible, schedule study time just before and just after class.
 - Develop regular study habits (e.g., studying in the same place at the same time).
 - Maximize your study time by avoiding distractions and “pre-study rituals” (Walton).
 - Make sure that all your study time is spent in active studying.
 - Study your most difficult material at the beginning or end of your study session. Even consider doing a little “review” or “summary” at the beginning or end of your session.
 - If you can stay focused over a long period of time, consider clumping together your study time. Treat your law school work like a job.
 - Think creatively about how to use “down time.”
7. To the extent possible, complete a monthly or semester calendar that includes writing assignments, midterms, and other assignments. Incorporate adequate time to prepare into your weekly schedule.
8. Spread out study sessions if you know that you tend to lose concentration after a certain period of time. (Build “break times” into your schedule.)
9. Develop good sleep habits early. Remember that law school is a three- or four-year process and that skimping on sleep will catch up with you.
10. Develop alternative strategies if keeping a schedule is too restrictive for you, such as creating a “to do” list for each day or each week.

V. Complete your schedule by allocating time for your additional personal needs and responsibilities, like workout time. *Try to leave some time for fun!*

STEP 2: ASSIMILATION

After you “distill” the core concepts from the various cases and statutes you have read, you will still be left with a very long list of seemingly unrelated rules and facts. If you tried to learn the course concepts from that list, your studying would be terribly inefficient! You therefore must begin the process of “assimilation”; i.e., you must see the relationships among the concepts and put them together into a format that will help you learn the information from the course. Outlining is the process by which you do that.

I. What is outlining?

In essence, outlining is the process by which you take the information from your case briefs, class notes, class syllabus, and other sources and organize and summarize it into a document that

contains the highlights of the course. There is no one ideal format for an outline; the key is that it must help you learn the information in the course so that you can do well on your exam. A “pretty” outline that doesn’t help you learn the concepts of the course ultimately then is not serving its purpose. Outlining is not merely done to produce a specific document that follows a certain format. Although the end product, your outline, is obviously important, the process of outlining is even more important.

II. Why should I do it?

- Outlining will significantly help you to learn the important information in a course.
- Outlining produces a document that will serve as an invaluable tool in your final exam preparation.
- Outlining forces you to identify the core concepts in a course in a way that case briefing, notetaking, or casebook reading cannot.
- Outlining serves as a powerful review technique that helps you identify your areas where you need additional review.
- Outlining will help you bring together and organize any disorganization inherent in the class presentation.
- Outlining enables you to create a document that is professor- and exam-specific.

III. When should I do it?

If possible, begin the outlining process early in the semester. Although you need not worry about crafting the perfect outline early in the semester (which will be impossible!), you should at least begin the *process* early in the semester. A good time to begin the process is after your professor completes the first major topical area in the course.

IV. How should I do it?

Like so many other legal study skills, there is no one right way to outline that works for everyone. However, the following techniques certainly work well for most students. See Attachment B for a suggested outline framework.

1. **Have all your source materials (casebook, notes, briefs, etc.) available as you work.**

As noted, one of the main functions of your outline is to integrate related information from all your informational sources.

PRE-OUTLINE (STEP 1)

2. **Create a skeletal framework that organizes the outline by concepts, not cases.**

An easy way to begin this process is to look at your syllabus or your casebook’s table of contents to provide you with the framework for the major concepts. You therefore can begin pre-outlining as soon as you get your book and syllabus.

OUTLINE (STEP 2)

3. **Build on your skeletal framework by inserting the relevant rules and elements from the cases and statutes (Step 2A).**

Here, you should use your briefs to help you organize your outline. Take the key rules and analytical points from your briefs and insert them into your outline.

4. **Use class hypotheticals and cases illustrations to provide examples and support your discussion of the key rules and concepts (Step 2B).**
5. **Include “background” or theoretical information that will help you analyze issues on your exam (Step 2C).**

POST-OUTLINE (STEP 3)

6. **After you complete your course outline, reduce it to a one or two-page issue spotter checklist.**

You may find it most helpful to do this step during your final studying (see Step II under Exam Preparation below).

NUTS AND BOLTS

7. **Don’t overly abbreviate the information in your outline.**
8. **Don’t assume that there is one ideal length for every outline.**

STEP 3: APPLICATION

After you “assimilate” the rules and concepts of the course into outlines, flowcharts, diagrams, and the like, you must turn towards *applying* those rules and concepts in new situations in preparation for the exam. As noted above, law school exams usually concentrate on testing students’ ability to apply rules and concepts. They often present students with hypothetical fact patterns, and students must use legal rules and concepts to solve the problems presented in the hypotheticals. Knowing the legal rules is only one part of success on an exam. In Step 3, you therefore must practice applying the course rules and concepts by working through sample questions in the format (e.g., essay, multiple-choice, etc.) you anticipate seeing on an exam.

EXAM PREPARATION

- II. Whatever regimen you follow, make sure that your final studying is active (i.e., that you do more than simply re-reading your course materials).
- III. Use the process of outlining to help you prepare for the exam.
 - 4) *After you compile an initial, longer outline, begin the process of distilling that outline into a shorter mini-outline that you can aim to memorize for final exam studying.*
 - 5) *In drafting all your outlines (your initial and revised versions), organize the format in a way that gives you step-by-step guidance on how to answer questions.*
 - 6) *In addition to preparing a mini-outline, consider crafting flow charts or diagrams to help you nail down “big picture” issues or distinctions among related concepts.*
- IV. Be careful to select a study environment that maximizes your concentration and minimizes interference.
- V. If you use study groups, set a clear agenda before you meet in groups.
- VI. Review your study schedule to ensure that you have adequate time for review.
- VII. Be attune to any information the professor provides about the exam and take advantage of opportunities to review questions with the professor.

- VIII. As the exam approaches, concentrate on concepts that you don't know well and that are likely to be on the exam.
- IX. As the exam approaches, focus on answering sample questions and hypotheticals.
 - 1. *Review and take old exams from your professor, if possible.*
 - 2. *In obtaining questions from non-Regent sources: (a) focus on any resources that your professors recommend; (b) seek sample questions that most match the type of questions you are likely to see on your exam; and (c) review "sample" answers from non-Regent sources with caution.*
 - 3. *Be sure that you simulate the actual exam conditions.*
 - 4. *Don't wait until you know "everything" before trying to answer sample questions.*
- X. Although you should not focus on memorization as a studying technique, make sure that you've memorized your big picture framework for each course before the exam.
- XI. If you're way behind and need to "cram," focus on studying core concepts and test yourself along the way to make sure you are learning the material.
- XII. *Don't study right up until going to bed the night before your exam; you may have difficulty falling asleep.*

XIII. EXAM TAKING

- I. Pray for wisdom and peace as you approach the exam. (See Phil 4:6-7)
- II. When you receive the exam, read the instructions.
- III. When the proctor tells you to begin, write down any mnemonics or issues that you are likely to forget. Do not try to recreate your entire mini-outline.
- IV. Scan the exam to determine how you should allocate your time. Then, stick to that allocation.
- V. Read and try to answer the first question first. Skip it if you find it to be very difficult.
- VI. In approaching any essay question, focus on the call of the question.
- VII. After reviewing the call, read the question through and begin to mark key facts or issues; then read it again to be sure that you haven't missed anything.
- VIII. In trying to spot the issues, pay attention to all the facts in the question.
- XIV. *Remember from your review of sample questions which facts customarily trigger which issues.*
- XV. *Take note when a question seems to provide you with "unnecessary" facts, that is, facts that aren't necessary to advance the chronology of the question.*

- XVI. *Observe when a question gives you a lot of facts that appear relevant to one issue or one element of the issue.*
- XVII. *After you think you've spotted all the issues, double check to ensure that you've identified the relevance of most, if not all, of the facts.*
- IX. Outline your answer before you begin to write.
- XVIII. *Spend about 25% of your time for each question reading the question and outlining your answer. As you outline, determine how long it will take you to address each issue.*
- X. Note all the major, debatable issues in your outline.
- XIX. *Recognize that if an issue raises a category of a concept, you should discuss all the categories within that concept but should quickly dismiss those that are clearly not in play.*
- XI. Tailor your outline and answer to your particular professor.
- XII. In writing your answer, let IRAC work for you, not against you.
- XX. *Focus on the "A" in IRAC by weaving specific facts from the question into your analysis.*
- XIII. Use an introductory road map and good transitions (like headings or a strong paragraph structure) to help your answer flow, but do not stick to your outline at the expense of omitting key issues.
- XIV. As a general rule, discuss the black letter law before you discuss any theoretical or normative arguments.
- XV. Remember that the best preparation for objective-type questions (like multiple-choice) is working through those types of questions before the exam.

Whatever regimen you follow, make sure that your final studying is active.

- II. Use the process of outlining to help you prepare for the exam.
 - 1) *After you compile an initial, longer outline, begin the process of distilling that outline into a shorter mini-outline that you can seek to memorize for final exam studying.*
 - 2) *In drafting all your outlines (your initial and revised versions), organize the format in a way that gives you step-by-step guidance on how to answer exam questions.*
 - 3) *In addition to preparing a mini-outline, consider crafting flow charts or diagrams to help you nail down "big picture" issues or distinctions between related concepts.*
 - 4) **Be careful to select a study environment that maximizes your concentration and minimizes interference.**
- III. If you use study groups, set a clear agenda before you meet in groups.
- IV. Review your study schedule to ensure that you have adequate time for final review.
- V. Be attune to any information the professor provides about the exam and take advantage of opportunities to review questions with the professor.
- VI. As the exam approaches, begin to concentrate on concepts that you don't know well and that are likely to be on the exam.
- VII. As the exam approaches, focus on answering sample questions and hypotheticals.
 - 1) *Review and take old exams from your professor, if possible.*
 - 2) *In obtaining questions from non-Regent sources: (a) focus on any resources that your professors recommend; (b) seek sample questions that most match the type of*

questions you are likely to see on your exam; and (c) review sample answers from non-Regent sources with caution.

3) *Be sure that you simulate actual exam conditions.*

4) *Don't wait until you know "everything" before trying to answer sample questions.*

VIII. Although you generally should not focus on memorization as a studying technique, make sure that you've memorized your big picture framework for every course.

IX. If you're way behind and need to "cram," focus on studying core concepts and test yourself along the way to make sure you are learning the material.

Select tips and examples in this handout come from a variety of sources, including:

1. Ruta K. Stropus and Charlotte D. Taylor, *Bridging the Gap Between College and Law School: Strategies for Success* (Durham, NC: Carolina Academic Press, 2001).
2. Kim Walton and Lazar Emanuel, *Strategies and Tactics for the First Year Law Student* (Larchmont, NY: Emanuel Publishing, 1997).
3. Dennis J. Tonsing, *1000 Days to the Bar—But the Practice of Law Begins Now* (Buffalo, NY: William S. Hein & Co., Inc., 2003).
4. Barbara Glesner Fines. *Law School—Materials for Success*, available at <http://www.law.umkc.edu/faculty/profiles/glesnerfines/success-front.html> © 2000.
5. Paul Bateman. *Ten Instructions for Briefing Cases*, available at <http://www.swlaw.edu/programs/briefingcases.htm> © 1999.

**BRIEFING FORMAT
(ATTACHMENT A)**

COURSE: _____

CLASS DATE: _____

CONCEPT: _____

CASE NAME &
CITATION:

BOOK & PAGE: _____

FACTS: _____

PROCEDURAL HISTORY: _____

ISSUE(S): _____

RULE(S): _____

ANALYSIS: _____

CONCLUSION/HOLDING: _____

CONNECTIONS TO OTHER CASES/LARGER CONCEPT: _____

NOTES: _____

**SAMPLE OUTLINE FRAMEWORK
(ATTACHMENT B)**

I. Introduction

(Optional—this section may be included if your professor discusses general frameworks or theories that impact your analysis of the course material.)

II. First Main Concept/Topic

(If the first concept is really a group of related concepts, such as “intentional torts,” then you must break down this section. To do so, you may use a separate major heading for a single concept, such as “battery,” or you may make the major heading the group of concepts and then list each concept as a subheading.)

A. General Principles

(Optional—this may be included in its own section, but it might go best under specific elements if the policies/ principles are concept-specific. Also, be sure to organize this information in a way that will help you answer an exam question.)

B. Rule of Law: General definition that lists the applicable elements, tests, factors, or rationales that must be analyzed to determine whether rule is satisfied

1. Element/Factor 1

- a. Explanation of Element (definition of the element and/or factors that would be used to determine whether that element is satisfied)
- b. Application (short description of hypo/case illustration)

2. Element/Factor 2, etc.

- a. Explanation of Element (definition of the element and/or factors that would be used to determine whether that element is satisfied)
- b. Application (short description of hypo/case illustration)

C. Exceptions/Defenses/Limitations of Rule

1. First Exception, etc.

- a. Explanation of Exception (definition of the exception that would be used to determine whether that exception is satisfied)
- b. Application (short description of hypo/case illustration)

D. Second Rule of Law (if there is one) etc.

III. New Concept/Topic etc.