

Organizing Your Answers

When it comes to law school examinations, all students struggle to organize their writing. Even students who are quite proficient at responding to the hypotheticals posed in their classes can struggle and even freeze when confronted with a multi-issue, multi-party question on an examination. Experienced lawyers rarely encounter this problem because organizing their answers has become second nature. So, how do you accelerate your time table and handle the organization of legal issues like a seasoned pro? The answer is easier than you may realize because, in the end, there are only a few things to keep in mind.

- **Point #1 – Finish reading the problem before you start writing.** You cannot organize your answer to a lengthy problem after reading only a small fraction of the facts, but this is a common mistake made by first-year students. There may be an issue contained within that first sentence, but the resolution of that issue may be impacted by material contained further into the problem. Look at it this way. If a client came into your office, sat down across from you, and said “My neighbor saw me raking in my yard the other day and walked up to me . . .” would you shout out “Trespass to land!” or would you wait to hear the rest of the story. You cannot begin organizing until you hear the entire story. Once you do, you can begin organizing by creating a list of all the different issues suggested by the facts.
- **Point #2 – You should walk into the examination with one level of organization already in your mind.** I encourage students to review and outline throughout the year. First, it is the best way to ensure that you understand each of the concepts covered in class. Second, and more relevant to this conversation, outlining helps you see overarching organizational structures within each area of the law. For example, as you outline materials from your contracts class, a pattern should start appearing. The pattern is based on the reality that much of contract law is about whether there was an agreement between the parties. To assess whether there was an agreement, a good starting point is whether there was an offer, which requires an understanding of how one establishes the existence of an offer. Next, was there acceptance of that offer, a rejection of that offer, or counteroffer? There are, of course, additional steps in determining whether there is an agreement between the parties, but you should get the picture. You then memorize this overarching structure and apply it to each potential agreement between parties that appears on your contracts exam.
 - Creating these organizational patterns will be more obvious in some course than in others. While large scale organizational patterns do appear in contracts and civil procedure, similar patterns are not as obvious in torts and criminal law. That’s OK because you can create smaller scale patterns with the material in these courses that will still help you organize your exam writing. For example, 1st degree murder, 2nd degree murder, voluntary manslaughter, involuntary manslaughter, and any other crime where someone dies can all be placed together under the heading “Homicide.” This will help

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you see what truly differentiates the various homicide crimes from each other and will create a structure that you will apply whenever someone dies on a criminal law exam. So, when someone dies in your criminal law final – and someone will – you would address each homicide crime independently, though not necessarily equally.

- **Point #3 – The examination fact pattern will suggest an organizational structure.** Broadly, there are two major organizational patterns that are suggested by the facts on any law school examination – organization by party or organization by event.
 - Organization by party requires you to address the actions of each person, one person at a time, and discuss the meaning of those actions. This type of organization seems to work well in criminal law and torts where each person may have created a number of crimes or is potentially liable for multiple torts.
 - Organization by event, which typically works well in contracts and civil procedure, means organizing around some event. In this context, I am using the term “event” quite broadly to include things like negotiating an agreement, filing a lawsuit, or parking my automobile overnight in a garage. Under these examples, the event becomes the starting point for discussing the various legal issues that have been generated.
 - Whether you proceed by party or by event, you will still be using the organizational patterns discussed in **Point #2** to move the discussion along. For example, a plaintiff’s lawsuit might be the starting point for my discussion of subject matter jurisdiction (SMJ), but I walked into the examination knowing that whenever I talk about SMJ I must address the subsidiary points of arising under jurisdiction, diversity jurisdiction, corporate diversity, domicile, etc.
- **Point #4 – When dealing with small scale organization, let the law be your guide.** Once you have moved beyond large scale organizational concerns, you still have to organize your analysis of each independent issue. When analyzing an issue – such as whether an individual is liable for an assault – let the law provide you with your small scale organization. For example, the typical definition of an assault looks something like this – did the defendant intentionally place another in apprehension of an imminent battery.¹ This rule is actually comprised of multiple elements, and each element is a separate mini-issue that requires its own analysis. The analysis of one element may be significantly longer than your analysis of another, but all elements must be addressed.

¹ If this definition differs from what you are learning in class, follow the version used by your torts professor.