Structure of Legal Analysis

• What is legal analysis or legal reasoning?
• The application of primary authority to facts in order to solve a legal problem.
• We already know what primary authority is.
• What is the purpose of legal analysis?
• It is to avoid a legal dispute from arising,
• To resolve a legal dispute that has arisen, or prevent a legal dispute from becoming worse.
Structure of Legal Analysis

• The central dispute in torts law centers on the determination of who, if anyone is liable (has legal responsibility).
• What will legal analysis help you do?
• It will help you find identify more facts in a case, you may need to interview your client again or witnesses.
• Advocate your case in a way more helpful to your client,
• Help you make a more reasonable argument on how a rule applies to the facts in a manner most helpful to the opponent of the client.
• Finally it will help you make an educated guess of what the particular court will do.
Structure of Legal Analysis

• What is IRAC?
• Issue: Identify the legal issue to be resolved in the clients case.
• Rule: State the rule that is at the center of the issue
• Application: Apply the rule to the facts of the client’s case.
• Conclusion: State the conclusion of whether the rule applies to the facts.
Structure of Legal Analysis

• You can use IRAC in memos of law; and in exams.
• What is a legal issue?
• Questions of law.
• You must narrow the issue.
• How do you do this?
• Rephrasing the question.
• If there is more than one tort do the same for each.
Structure of Legal Analysis

• What is a Rule?
• What is Application?
  1. Preliminary assessment
  2. Legal analysis
  3. Legal analysis, investigation, and interviewing
  4. Breaking a rule down into its elements
  5. Definition of the elements
  6. Connecting facts with elements of the rule
  7. Legal analysis and further research, investigation, and interviewing
  8. Factor analysis
  9. Counter analysis
  10. Length of legal analysis
Structure of Legal Analysis

- What is preliminary assessment?
- Asses the facts
- What rules appear to apply in this situation
- You are searching for possibilities
- In order to find possibilities you have to ask two types of questions
  - Open ended and or direct questions
- In order to ask the questions you must know the elements of most torts.
Structure of Legal Analysis

- What is the purpose of open ended or direct questions?
- To help organize your thinking
- To help you decide what legal research must be done
- To help you decide what further facts you must check through field investigation and further client interviewing
Structure of Legal Analysis

- Legal research must be done to find statutes and cases that apply to your clients facts or legal issue.
- Once you do the research you may be short on facts and you may need more facts to continue the research.
- Elements we know what those are.
- When applying the facts to the rule you must break down the elements.
- Then you have to go to find the definitions of the elements.
Structure of Legal Analysis

• Where do you find those?
• Sometimes the definitions have words which have to be defined
• Statute books
• Case law
• Then you can begin to connect the facts to the elements of the rule
• Elements of trespass the Tom and Jim case

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Structure of Legal Analysis

- Elements of trespass
- An act
- Intrusion on land
- In possession of another
- Intent to intrude
- Causation of the intrusion
- (Discuss)
Structure of Legal Analysis

- What is factor analysis?
- Simply a consideration that a court will examine to help it decide whether an element applies
Structure of Legal Analysis

• What is Counter Analysis?
• What is the Conclusion?
THE END