

ORIENTATION CLASS: PROF. GROHMAN 2017
SAMPLE LAW RELATED ANALYTICAL PROCESS

NOTE: This is for demonstration purposes only. Different professors approach problem solving differently. This demonstration, therefore, is NOT intended to interfere with any other law professor's requirements.

I. Practicing law is a **THINKING process** that involves **asking and answering relevant questions**, solving problems **using applicable law and facts**.

A. **IDENTIFYING AND ASKING ALL RELEVANT QUESTIONS**

1. **How do we know what the relevant questions are?**

a. The key is in the word "**RELEVANT**"—a **relationship** with something with which we are dealing.

1) **How do we determine what has a relationship to that with which we're dealing?**

- a) **Initially** the **overall facts** give us **hints**. They tell us either expressly or inferentially about **those matters concerning the parties**. So, they give us our **ultimate question(s)**.
- b) **Then**, often, we refer to a **rule of law** that **addresses** the **ultimate question(s)**. That law may have a term or segment that needs explaining or solving. If so, we turn that into a question that needs to be answered through the same process.
- c) Ultimately, the **facts and law lead us to RELEVANT QUESTIONS**.

B. **ANSWERING ALL RELEVANT QUESTIONS**

1. **How do we (i.e., what process do we use to) answer those questions?**

- a. First, identify if there is any **law** that relates to the question asked.
- b. Second, decide an attack method based on the answer to the previous question.

In other words:

- 1) If there is **not law** relating to the question asked,

- a) first identify all **facts** that relate to the question asked;
 - b) second line the facts up in the **possible two types**:
 - (1) one that has facts, if any, resulting in a **positive answer** to the question and
 - (2) the other that has facts, if any, resulting in a **negative answer** to the question;
 - c) and finally, objectively weigh each type and decide what is the most likely conclusion from the facts.
- 2) If there is law relating to the question asked,
- a) State all **law** relating to the question asked.
 - b) Then **identify** if there any **parts** (words, phrases, clauses, etc.) in the statement of law that **need explanation**.
 - (1) If no part of the statement of law needs explanation,
 - (a) first identify all **facts** that relate to the law stated;
 - (b) second line them up in **two types**: **one** that has **facts**, if any, showing the **law** stated has been **met** and the **other** that has **facts**, if any, showing the **law** stated has **not** been **met**; and finally objectively weigh each column and decide what is the most likely conclusion from the answer to the question;
 - (c) and finally, objectively **weigh** each type and **decide** what is the most likely conclusion from the facts re **whether** the **law** has/has not been **met**.
 - (2) If there is part of the statement of law that needs an explanation, take each part alone and
 - (a) first, **turn** that part **into a question**;
 - (b) second, state the **law** as to that question;
 - (c) third, use the **facts** to see if that rule is/is not met and **compare/decide** which facts are more persuasive;
 - (d) fourth, draw an objective **conclusion** as to **whether** the **law** has/has not been **met**.
 - (e) If there was law relating to the questions asked, add up all the conclusions as to whether the elements of law have been met and use them to conclude the answer to the big question.

II. **EXAMPLE USING THINKING PROCESS TO SOLVE A QUESTION:** Assume the following **fictional facts and law:**

Aorta and Beta met while they were riding their bikes along the Great Southeastern Trail in the State of Nova. They talked and got to know each other while they rode for a few miles, ultimately reaching the Cesspool, an establishment frequented by most of the self-identified “cooler” inhabitants in the area.

Aorta and Beta stopped riding and dismounted from their bicycles. They did not yet park their bikes, but were finishing their talk while Beta balanced their bikes, one on each side of Beta. As they discussed whether to go inside and continue chatting, but before Beta parked their bikes, Chappo, who has romantic interests in Aorta, became jealous and angry, even though unable to hear what they were saying.

Chappo revved up Chappo’s Monster Truck and sped directly towards Beta’s and Aorta’s bicycles. Fortunately, Beta jumped out of the way while holding onto Aorta’s bicycle with one hand. Even so, Chappo ran into Beta’s arm, breaking it and knocking Aorta’s bicycle out of Beta’s hand. Chappo claims it was not on purpose.

Beta’s attorney’s first inquiry, among others, is whether Chappo might be liable for acting intentionally.

Since the overall question involves potential liability for intentional physical contact with another person, this fact, when combined with our knowledge of the law, leads us to consider rules of law involving potential physical contact with a person.

To answer that question, we must immediately address the local law on this topic. Under NOVA (fictional) law *a beating arises from the intentional touching of another in a harmful or offensive way without permission and without defense(s)*.

If the statement of the rule is clear, we need only to turn the rule into a question (e.g., Did Chappo *intentionally* touch Beta in a harmful or offensive way without plaintiff’s permission?) and then go to the facts and use them to conclude with an answer.

HOWEVER, the attorney has asked us to consider only one question so far:

1. Did Chappo, in hitting Beta’s arm, act “intentionally”?
 - a. Here, nothing in the rule explains “intentionally.” So, we have to go to the **law**, if any, as to what amounts to “intent,” acting “intentionally”.

NOVA law says that *one acts intentionally when one acts*

voluntarily, e.g. not being forced by another, and either desirous of a particular outcome or with disregard for a likely result.

- b. Next we would look at all **facts**, first identifying those facts, if any, that show the law of “intent” is met and then identifying those facts, if any, that show the law of “intent” is not met.

Here, Chappo revved the engine and sped the truck without force or involvement of any other person. Chappo drove voluntarily.

Also, Chappo drove directly towards the bicycles in Beta’s hands, took no steps to avoid impending contact, and struck Beta’s arm while Beta was holding onto the bikes. Since the bikes were in Beta’s hands, a likely result would be striking Beta as well as the bikes.

- c. Lastly, based on an objective analysis, we weigh the two classes of facts and conclude the law of “intent” was or was not met. This is the answer or conclusion to the question raised in 1. above.

Therefore, Chappo acted voluntarily and without regard for the likely outcome. So, Chappo acted intentionally.