

Conclusory Statements and How to Avoid Them

A conclusory statement is when you make a conclusion but you do not support it with any evidence or reasoning. Essentially, it is the same as someone asking you “do you know why the sky is blue?” and you respond with “the sky is blue.” It does not give the person who is asking the question any indication as to why the answer is what it is, nor does it make you seem credible or believable. You may be entirely right, but without showing how you reached that conclusion, you have a conclusory statement. It is just like math class when you had to show your work. Answering an essay question in law school is the same way, you have to show the work and how you reached the conclusion.

To further explain conclusory statements, let's work through this hypothetical: *Professor Joe was teaching a torts class with 100 students in a packed lecture hall. To illustrate some rules about intentional torts, Professor Joe took his shoe off and threw it directly into the crowd of students. He was not aiming for anyone in particular. His shoe hit Sally in the head and she suffered a severe concussion as a result. Did Professor Joe have intent?*

It would be conclusory in your analysis paragraph to say: *Here, Professor Joe had intent because he threw the shoe.* This is conclusory because it is simply stating a conclusion with no evidence or reasoning to back it up. It leaves your reader wondering, ‘what does throwing a shoe have to do with intent?’

To make that sentence better, what you should do instead is: *Here, Professor Joe had intent because by throwing a shoe into a crowded lecture hall he had knowledge to a substantial certainty that it would make contact with at least one person.* This sentence, in comparison to the last, is better because it proves to your reader what throwing a shoe has to do with intent.

Let's consider another hypothetical: *Tina and Walter work together at The Newspaper. On Monday at 5pm both Tina and Walter left the office and headed to the parking lot to go home. As they walked out of the building, Tina was telling Walter all about her weekend plans to visit her parents in Orangeland. Unbeknownst to both Tina and Walter, Carl was waiting in his car in the parking lot. Carl was still angry that Walter got promoted over him, and was waiting for Walter to walk past his car so he could run him over. Just as Tina and Walter were about to step in front of Carl's car, another co-worker called Walter's name, causing him to turn around and walk in the opposite direction. Carl, not noticing this, drove full speed at Tina, hitting her and severely injuring her. Did Carl have the requisite intent to be held liable for battery against Tina?*

Now imagine this is the first draft of your answer:

The issue is whether Carl had the requisite intent to commit battery.

The first element of battery is intent, which is defined as either purpose (desired outcome) to cause the contact, or knowledge to a substantial certainty that the contact will occur (Garratt). The doctrine of transferred intent adds another layer onto this, and states that if the defendant had the requisite intent to commit a battery against one plaintiff, then that intent can transfer to a different plaintiff if the tort was actually committed upon someone else.

Here, Carl hated Walter. Since he hated Walter, his intent transferred to Tina.

Thus, Carl had the requisite intent to commit battery.

The analysis, “*Here, Carl hated Walter. Thus, his intent transferred to Tina.*” is completely conclusory. Can you see why it is conclusory? How would you fix it?

Here are some ways you can make it better, and as a result maximize the amount of points you get on your law school exams:

★ **Fact + Rule = Analysis**

This formula is great to have in the back of your mind at all times. What it means is that if each of your analysis sentences is a combination of facts from the fact pattern and rule from your rule paragraph, you will avoid being conclusory. You can replace the ‘+’ with the word *because*.

Let’s start with the first sentence of that analysis: *Here, Carl hated Walter.*

The problem with this sentence is that it is just facts. There are no rules in this sentence at all, so all you are doing is telling your professor something they already know (they wrote the facts, they know the facts, they do not need you to tell them the facts again). By reading this one sentence, your professor has no idea what this fact has to do with your rules, and as a result it does not prove anything.

This would be much better: *Here, Carl had **purpose to commit a battery** because **he hated Walter and wanted revenge**. By **wanting revenge on Walter**, Carl had the **desire to make contact with Walter**, and thus the requisite intent.*

This, on the other hand, combines facts and rules together. Anything in blue is a rule straight from the rule paragraph, and anything in orange is a fact straight from the fact pattern.

Now let’s look at the second sentence of that analysis: *Thus, his intent transferred to Tina.*

The problem with this is that it is just rule. There are no facts in this analysis at all. It will leave your professor to make their own assumptions, which is not what you want to do. If your

analysis paragraph is full of sentences like this you are not actually analyzing anything at all, rather you are restating what you already said in your rule paragraph.

This would be much better: *Under the doctrine of transferred intent, the fact that Carl meant to hit Walter but actually hit Tina is not important. Since Carl had the requisite intent to commit a battery against Walter, that intent transferred to Tina when Carl made contact with Tina.*

Again, this is much better because this combines facts and rules together. Anything in blue is a rule straight from the rule paragraph, and anything in orange is a fact straight from the fact pattern.

★ Add the word “because” or say “why”

Another technique you can use is saying the word “because” or “why?” at the end of each of your analysis sentences. If you can say more after a “because” or answer the “why?” question, then you are being conclusory and need to add more.

For example, “Thus, his intent transferred to Tina.” In your head say “*Thus, his intent transferred to Tina because...*” and you can easily add more explanation. “*Thus, his intent transferred to Tina because he had the requisite intent to commit a battery against Walter.*”

Or, “*Thus, his intent transferred to Tina. Why?*” You can answer that question in your head, meaning there is still more to write. Carl’s intent transferred to Tina because under the doctrine of transferred intent since Carl had the requisite intent for battery against Walter, he also has the requisite intent for a battery against Tina.

★ Pretend like you are arguing in front of a judge

Another tip is to pretend like you are in court arguing in front of a judge, because that is essentially what the analysis section of your IRAC is anyway. If you went in front of a judge and said “Your Honor, Carl hated Walter,” and then sat down, the judge will either ask you a million follow up questions or dismiss the case because you did not prove anything to the judge. Instead, you need to say “Your Honor, Carl hated Walter. This shows he had the requisite intent for battery because his hatred gave him a purpose and desire to make contact with him.”

★ Pretend like your professor has never heard the law before

Another technique is to pretend like your professor has never heard the law before. Even though your professor is an expert on the law, when you are writing your exam answers you want to pretend that they are your Grandma, younger brother, or college roommate. If you said “Here, Carl hated Walter. Thus, his intent transferred to Tina” to your professor after class one day, they will most likely understand what you mean. However, if you said that same thing to your younger brother, he would have no idea what you mean. He might ask you questions like: “Well

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what does hating someone have to do with intent?” “Why did the intent transfer?” and so on. You need to explain your reasoning to someone that has never learned the law before.

★ Write out every step of your thought process

A final tip is to write out every step of your thought process. Professors are not mind readers, they do not know what you were thinking. To say “Thus, his intent transferred to Tina,” you had to have gone through an entire step by step thought process in your head to come to that conclusion. You necessarily had to think (1) Walter had intent because (2) he hated Carl and that (3) shows purpose. (4) Since Walter had the requisite intent, (5) his intent transferred to Tina under the doctrine of transferred intent. To avoid being conclusory, you need to write out all of these steps, explain *how* you got to the conclusion you are making.

If you are still having trouble avoiding conclusory statements, please contact your ASFs, or anyone on the Academic Success team for help.