Taft College  
Remote Cart ST  
Baby Bar Review  
August 8, 2017  
Edris Lambert  
6:00 p.m.

PROFESSOR: Good evening everybody. Welcome, and we'll be starting in approximately five minutes. Make sure you have a multi-state lecture. Again, we'll be starting in approximately five minutes. Thank you. Good evening everybody. We'll be starting in approximately two minutes. We'll be starting in approximately one minute. For those of you who just joined, make sure you will have the multi-state lecture that was e-mailed out to you. We'll be starting in approximately one minute. Thank you.

Good evening everybody and welcome to tonight's Baby Bar Mini Series. This is the first evening we're starting this for the October session. All sessions will be recorded so you if you want to go back and listen to the session, or if there is one that you can't attend, everything will be put up on Taft's website. Just go to the Student Section and then click on the Baby Bar Mini Series. Whatever lecture you didn't get to attend and one will be up there for your convenience.

Tonight our primary focus is on how to attack the multiple choice questions. With multiple choice questions, in law, you will narrow it down to two good answers, but one is better than the other, so it is about how you master the skills in multiple choice questions.

You are responsible for torts, contracts, UCC and criminal law. UCC we are a little weak on because that is upper class. That is something that you will want to focus. You will be sent out an e-mail on the area I want to you focus on because those are the ones I want you to test on the multiple choice questions. When we get ready to do contracts, I do want to you to pay attention to the list.

Let's start with torts. You will find on the multiple choice questions that they will direct to the elements of the tort. Let's say it is battery. You have to break it apart and say are they testing the intent, was it harmful, offensive, or touching of another? You will have to break it apart and see again, based on the law, what they are testing. With the contracts, you will find those multiple choice questions are more demanding. Reading comprehension. You will have to break it apart. In criminal law, similar to torts, you have to focus on the elements, i.e., the black letter.

The one area I want to you make sure you to pay attention to, torts versus criminal law, make sure you read and understand the call of the question. A lot of times you read the facts and you are thinking it is torts, but it is battery and criminal law because the call told you. You will know if it is a prosecutor or the State bring the action to the other party. The call will dictate according to the call. You want to be sure that you answer it according to that call. So if it is a tort call, are you answering according to the law of torts?

You will be given four multiple choice answers to choose from. You will experience that they are going to be what we call mixed. When you get the 100 questions on the Baby Bar, this happened to be 33 contracts, and then flip the page and it will be 33 torts. They will be combined amongst three subjects, so you will have to determine as to what the question is testing. Again, the more you start experiencing and practicing, you will see that it is not that difficult; if it is a tort question, contract, or criminal law question. Remember they are all worth the same points, so make sure and answer them all. If you are running out of time, fill out the bubble, don't leave anything blank.

When taking multiple choice questions, use your checklist. We have a tendency not to do this. We only use our checklist for essays -- wow. You want to break it apart and see if they are testing the area of negligence. What are they testing? Was it the duty? Was the duty breached? What was there actual, possible damage? And then break that apart and then look at it. Obviously, know the innards.

You will find that multiple choice questions are comprised of three parts: The root, which is the fact pattern; the stem, which is the call of the question; and then of course, you have the options, which are your answer choices. The one thing I want to you understand is taking a multiple choice question is just as difficult as taking an essay and writing an essay question. You are still doing the same analytical logic, breaking it apart, versus the answer on the essay, you have to spell it out and show how you got there. The process of critical thinking is still the same.

When you read a multiple choice question, read the facts very carefully. The examiners know you are in a hurry, this is a timed test, and we are not reading through. That is why they test the way they do. Look for the language. The fact pattern often turns on details based on those facts. Determine what is a relevant fact and what is an irrelevant fact. When you read a multi-state question, Number one, I want to you always start with the stem, i.e., the call to question. The reason is this will narrow it down.

Number 1, you will be able to determine the subject matter. Torts, contracts, or criminal law. Number 2, if it is torts, maybe they gave you the issue. They gave you the theory of liability, (Indiscernible) liability. That will help you as well, narrowing it down to a specific issue and then you are focusing on those outcomes. When you are reading the actual facts and determining the issue. It is very important to start with the call.

Once you read the call of the question, you go up and read the fact pattern very carefully. Mark it up. If you go along and Joe called Mary and offered to sell his car and see if it is an actual offer and put it in the actual fact patterns. Mark that up based on what you are seeing in the actual facts. That will help you go through the process making sure the facts is offer or acceptance or whatever is at issue.

The last thing is the call to question. Sometimes you read these, they want you go left and they want us to go right. Look at the call. The call will point to what we are actually looking at. Some general rules, number 1, don't ever assume facts. Never. No assumptions are allowed. Facts have to support whatever contentions you see being raised based on the facts. Don't make it harder than what it is. We all know multi-states are hard. Keep it simple when you can. If there are ways to interpret the question, keep it simplistic. I don't make it harder and complex where you don't fully understand as to what is being asked.

Look for facts when you are reading a question. If there's a statute, break apart the statute. We have a tendency when we are given a statute on an exam, we ignore it. The statute on it, that's your black letter law. You need to break that apart and determine if the elements are based on the facts and the statute. You want to read the statute carefully. Most students don't apply it. You are given a statute and we ignore it. The examiners know this. I want to make it clear we understand what we're supposed to do based on the examination. That's important.

If a question is specific, if they say what is the best defense? Which claim will proceed? Rewrite the call. If they give you a criminal law question, "Which is the best defense?" Ask yourself, based on the facts what will support the defendant not being guilty. The best defense will get you off, and that's what you will be looking for. A lot of times the questions we do not like them because they are difficult, but break it apart. That's important. If you have to rewrite it, rewrite the actual question. What is the least likely outcome? Don't write those. What are you looking for? Basically determine, based on the facts, what's definitely going to fail; right? That's not going to happen. Look at that.

If you see a multi-state question, with the terminology of yes because or no since. These are what we call our conclusions. Therefore, everything after the since or because, will be true. So he's guilty. Yes because he shot him with his gun. Everything after that will be true. This will help you when you learn in a process and you can eliminate the answers yes I'm guilty, not guilty, yes or no. Eliminate two options right off the bat and then you read the other two. It is a great skill to develop because of time. We only have hours to complete our multiple choice questions.

Remember, everything after the since or because will be true. So if I know the answer is yes, and they give me no because, no since, I won't even read those. I will cross them off and read the other two, which are yes because, no because, and then look at those two.

Look at the sheet that was sent out to you, example number 1. Remember, you always start with the call of the question. Remember you need to understand the call. Let's look at the call of the question.

"If Pete is charged with assault, he will be found" -- I am thinking charged, criminal law because of the terminology. It could be tort. I go in there thinking it is criminal law, but I will start reading it back and look at the facts and it will be narrowed down to see if it is torts, but I know he's being charged with an assault.

1. In the State of X an assault is defined as an attempt to commit a battery. They just used a statute. What does that mean? That means to use the language in the statute. Assault is defined as an attempt to commit a battery. They just gave you the statute. What does that mean? That means to use the language in the statute. If the elements in this statute, based on the facts, have or have not been supported. Let's look at the facts.

1. As Pete was walking down Main Street, he dropped his cell phone. As he went to grab the phone while in the process of dropping to the ground he hit Mary, who was jogging down Main Street, in the butt. Mary thought Pete was being fresh and pushed Pete away. If Pete is charged with assault he will be found:

Remember, we're looking at the statute. So go back and break apart that statute. You need to show when an assault is defined as an attempt to commit a battery. Two elements. Number one, attempt to commit a battery. What you need to show for an attempt; specific intent, substantial step, preparation versus perpetration, and you need apparent ability. These are the four elements within an attempt, so this is a good statute. Why? Because we know we need to break apart the elements of intent.

Now that I looked at the actual elements of intent, I need to determine based on the facts that are supported, and can you tell based on the facts of a supported issue. Go back and he's dropping his phone. He hit her. Was his conduct intentional, was it specific intent, general intent? You want to break that apart. In the statute, it says attempt, you need to break that apart, you have to have specific intent, meaning he did this deliberately, and you don't see that. I know based on this question, since he didn't have specific intent, you will not be found guilty.

What you have done is you have honed in what is being tested within the assault. If you just say assault, you are being too broad. You need to hone in as to what elements are being tested and break it down. If you don't, we'll get the second best answer. Based on what we are seeing here, the mens rea, Pete had the specific intent as to what is being tested.

Looking at your answer choices A, B, C, and D, I see guilty because for A and B, not guilty because for C and D, based on the part before I even read the answer choices. Can you eliminate two? Specific intent, so I am going with the answer choice, he's not guilty. I can eliminate option A and B, can't I? Because it says guilty because. Remember, everything after because, I eliminate the two, and read just C and D.

Let's go ahead and look at all of the answer choices and do what I call the process of elimination. If you believe the answer is not guilty, you can eliminate right off the bat, but if you didn't, you have to go through one at a time, based on the facts. You have to see what's being tested based on the facts of the hypothetical.

Let's look at answer choice A. Answer choice A states guilty because he caused the apprehension and merit. Based on the statute, does he need to show, the prosecutor, that he created that apprehension? It is not an element. The statute defines an intent to commit a battery, so I know that's not the answer choice. Out it goes.

Now, let's look at answer choice B. Remember, we have narrowed it down to two. We need to show that Pete had specific intent. That is the mens rea of the statute. Guilty because he should have been aware of the others around him. He should have been aware would be what kind of mens rea? I could grab on general intent. Remember, the statute requires specific intent. Answer choice B suggesting he should have been aware, which is more of a negligence standard, but if I grab on to mens rea, and I know it’s not correct. Answer choice B is out. Answer choices C and D.

C says not guilty because he had no intent to touch Mary. That looks good. Put a plus there because that negates specific intent, based on based on what the facts support.

Versus D not guilty, because he did not intend to touch Mary. So D looks good, too. Very good. How do I know what's the best answer? Answer choice A, dead set is legal. Specific intent, he had no intent. I know that's what they are testing. Versus answer choice D, really gives me a statement of fact. He didn't intend to touch her. It is a factual statement. If you have legally correct versus factually correct, you go with the legally correct answer choice. I know it is hard because they want to trick, and it sounds so good, but not the best answer, so by process C for this example has to be the best answer.

Remember, if you have a legally correct answer versus factually correct, you always choose the legally correct answer. You are being taught you have to choose the best answer. Both could be correct, but you need the better example. In this example, C is a much better choice than D. Any questions on that?

You are learning about the modifier. Because of since. If you can eliminate two right off the bat, that is what you need to do, and that will help you time-wise. I want you to practice this. It will be a little faster because of the analysis in your mind. At first it will seem a little slow, but in the long run, it will save time.

We look at the modifier. Now we'll look to the modifiers if and unless. These are more tricky. When you see if as a modifier, everything after the if must be true. I will say it again. If you see a question using if as a modifier, everything after the if must be true. You want to make sure every portion after that statement is true.

With the answer choice using unless as a modifier, the best way to attack this answer choice is to rewrite it. If it says no unless, cross it out, and write yes if because you know everything after the if must be true. If it says yes unless, cross it out and put no if because you know everything after the if must be true. For some reason the unless used as a modifier makes it difficult for most students because it's almost as a negative. If you rewrite it, that should help you determining what's the best answer choice. You take the unless questions and make it into what I call an if question.

I have an example, number 2, for us to look at to give us an idea how do that. It says here. If Sam asserts a claim based on misrepresentation against Tammy, will Sam prevail? There's your call, so I know its misrepresentation. Sammy serving against Tammy and I know its torts. I know it’s a torts question, and we're testing this rep. With misrepresentation, you should be thinking of your elements. You need a false representation, has to be a material fact, and which one that justifiably lied to their detriment. I go through and see if I can support them based on the fact pattern. I am going to dice them and see that each and every one of the elements have been supported.

I do it by branching it off. Oh, this shows misrepresentation, this shows whatever it may be. I force myself to go through those elements. Versus reading it and say oh, misrep. If you don't break apart the elements, I guarantee you, you will get the wrong answer. Because they will trick you and leave one out. We know they look at it as what we call a whole and you can't do that. You have to do this own an essay based on the facts and see if it is supported. Do the same on the multiple choice questions.

Let's go through the facts. Tammy is a chemical engineer. She has no interest or connection with Chemco. Tammy noticed that Chemco’s most recent publicly issued financial statement listed as part of the assets a large inventory of a special chemical compound -- so I see it is on the financial statements -- the asset was listed at a cost of $100,000, but Tammy knew that the ingredients of the compound were in short supply and that the current market value was 1,000,000. Chemco’s stock is currently selling for $5.00. However, if the true value of the chemical was known then the stock would sell for $30. Tammy approaches Sam and offers him $6 a share for his 1,000 shares of Chemco stock -- so she is offering to buy. So the call is -- if Sam asserts a claim based on misrepresentation against Tammy, will Sam prevail?

Without even reading the answer choices, you should be breaking apart, what? That misrepresentation. Based on these facts was there a false representation? Tammy approached an offer to buy the shares at $6. She hasn't said anything, so I don't see it as representation. Was it a material fact? It would be material if I know that she misstated the value. Knowing the stock was worth $30 versus $5 or $6 in this case, which is what she is offering.

There is no reliance because there's no representation. Was it according to his detriment? This will fail and I can hone in on my answer choices. Looking at them I see yes because. Can I eliminate it right off of the bat? Remember, everything after the because modifier must be true and I feel she didn't make the representation, so who she be responsible, civilly, for false representation? No. So I could eliminate option choice A.

B says yes if. You see everything after the if is true because they can change the situation and add facts. C says no unless, we're going to rewrite that. Cross out the no unless, and put yes if and then everything after the if has to be true, and then D says no if, and then no if, everything after the if must be true.

Let's look at these one at a time. Answer choice A, because of the because modifier, I find based on the misrepresentation, if Sam is going to be -- you need what? It will be representation. You have to show each and every element of that misrepresentation is supported pursuant to the facts. Even though she had knowledge of the true value of inventory, she didn't make that representation. She did not go up to Sam saying I will pay you $6 even though I know your stock is only worth $5. We have some kind of representation based on her knowledge, so we know she may know the representation. A is not the correct answer. Now we're stuck with B, C, and D.

Option B, remember we got yes if. If with the modifier, remember, everything after the if must be absolutely true. Let's read it. Yes, if Tammy did not inform Sam of the true value of the inventory. We'll go through the elements of a misrep. She must make a false representation of a material fact with an unjust detriment. The only way I can argue that she made a falsity such as an omission is if there's a fiduciary duty between the two. I don't see that. Everything is not true because she doesn't have a fiduciary duty, so I know B is incorrect.

Let's look at C. Remember, this is a no unless. Write it yes if and again, everything after the yes if must be true. Yes, if Tammy told Sam that stock was not more than $6 a share. Oh, that means if she told him that means she made a representation knowing the mistake in the inventory, that the shares can sell for up to $30. C looks good; it looks correct. No if and everything after the if must be absolutely true.

No, if Chemco's financial statement was available to Sam. If it was available to Sam, if she made a misrepresentation, then the availability to Sam could be did he justifiably rely? If he didn't know about it, then he could have relied. That is not really a good answer. Versus if he did know about it based on that financial statement, then we obviously don't have reliance.

The best answer will be C. The fact that if she did make a misrepresentation or a representation, right? Then of course she will be responsible and he can prevail against her. Does everybody understand how the if and unless modifier is going to work? It is a really good tool to use in your multi-states and will help you immensely to get the answer and that is what this is all about.

Remember, as you see them going through the process, when taking the multiple choice questions, you have got to go through the rules. You have to break down the elements, break them apart and see if the parts are being tested.

Let's do example 3. What are you going to do? Read the stem, the call to question. In an action for false imprisonment against Raj and the Children of the Earth, Tillie will most likely:

For false imprisonment, for torts you need the intentional, physical or psychological confinement of another. I know those are my elements, so I will look for those.

3. Tillie Taylor was a member of the Children of the Earth. During one of the organization’s group encounter sessions, Raj Reel, the group's leader who knew that Tillie was a paranoid schizophrenic accused Tillie of being disloyal to her fellow “brothers and sisters." Tillie’s disloyalty stemmed from the fact that she had telephoned her parents in disobedience of the group’s code of conduct. Ostracized from the group, Tillie fled the commune and returned to her parent’s home that evening. After unsuccessfully trying to lure Tillie back to the group’s movement, Raj decided to employ a “last ditch” effort to secure her return. Raj leased a billboard located across the street from

Tillie’s house. Raj had the billboard printed to read:

“TILLIE, THE CHILDREN OF THE EARTH COMMAND YOUR RETURN.”

As a result of the billboard, Tillie suffered a nervous shock and refused to leave her house, fearful that she would be abducted by her former “brothers and sisters.” In an action for false imprisonment against Raj and Children of the Earth, Tillie will most likely --

Now, before you read you answer choices, go through the elements of false imprisonment. Do you have intent? Do we have physical and psychological confinement of another? We will break it a part. A lot of people find that there is false imprisonment. Well if there is it is a psychological confinement. Look at the facts. Does he want her to stay in the house or out? There's really no intent; he is not trying to confine her. Looking at you answer choices, recover since, recover since, not recover since, not recover since, can I eliminate the two right off of the bat? Yes. By breaking up the process of the elements based on the facts, I see the intent lacking, so I'm going to go with not recover.

I can eliminate, since they have the modifier since, answer choices A and B. That will save me time, and I only have to read answer choices C and D.

C. Not recover, since the defendants did not intend for her to be confined in her home. That looks true. I don't like the word intend, but it looks good.

D. Not recover, since Tillie was under no constraint to remain in her house. Well, it could be psychological, which she is paranoid, so we know D is incorrect. It has to be answer choice C. So C is the best answer. You need to show the intentional physical, psychological confinement. We have psychological confinement, but no intent. Most people miss this question, by the way. They see psychological confinement, and they say, oh, I got it. The think that's what is being tested, and it is not. It is the intent and there is a lack of intent.

This is a prime example that you need to break apart your final elements and show each of the elements is broken down with the facts before you chose you answer choice. Again, we don't do this because of time constraints. At first you go through this stuff, it may seem time consuming, but you will get faster at it because it will become a habit and you will keep breaking it apart.

Does anybody have any questions on the three examples we went through. I have six more to get you to interact with me with regard to these questions. If there are any questions, pop them up there for me and I will be more than happy to help any way I can in the question/answer box.

Let's look at question number 1. How we're going to do the process of elimination. Now it says Thomas brings a lawsuit now. That does not tell me much. This kind of issue comes up all of the time on multi-states, and you will want know what will be tested. I don't want to give it away yet.

Question 1. On November 1, 2009 Mozart entered into a contract with Thomas to play the piano in his nightclub for New Year’s Eve. The agreement was for $25, 000 for the evening. Mozart is very popular and Thomas knew he had a big following and would pack the nightclub with Mozart as the headliner. On December 29, 2009, Mozart called Thomas and told him he has been offered more money to play at another club and would not be playing. May Thomas bring the lawsuit now?

We know it is December 29th and he's supposed to play on New Year’s Eve. So a few days off. Can I bring the lawsuit now or do I have to wait and see if he shows up? What this is testing is the doctrine of repudiation. You need to show an express repudiation and you need to show that the contract is executory on both sides. If the answer is yes, you can bring the lawsuit now and you don't have to wait to see if the show is performed.

Can I bring a lawsuit now? A and B say no because no since -- they have the modifiers -- or C, yes because and yes since. I feel the answer is yes because of the contract preparatory stages. I can get rid of options A and B, going directly to C and D. That is going to save you time.

Option C says yes because Mozart repudiated a contract. That is true, he did. I will put a plus there because he did. Yes, since Thomas will lose profit without a headliner. I don't need to show loss of profit in order what would be recovered from a breach of contract. That could be just general damages; right? Because he has repudiated, and the contract is in executory state, he can sue now, the 29th. So C is the correct answer choice for question number 1. Again, do you see how I'm making you break apart the elements in seeing the support of the facts and that's how you get them correct?

For the most serious crime for questions number 2 that he can be convicted of is, larceny, robbery, burglary, and embezzlement. If I do see this kind of question, I quickly glance at the crimes they give me so when I am leading the facts, I will show what those facts support and that will help me through the process of elimination.

If question number 2, Biff goes to Jackson's house at 3:30 p.m. What does that tell me? Continues to break in and take Jackson's TV. When he arrives, he finds the door wide open and no one home. He walks in and takes the TV. The most serious crime that Biff could be convicted of is:

You are thinking of theft crimes. We have larceny by trick, entering in false pretenses. Then you have robbery, burglary -- going through these quickly, do I see embezzlement? I don't see any custody. Burglary, 3:30 p.m., not going to work; right? Robbery, there is no forced intimidation. I don't see any representation of larceny by trick. I don't see title transfer, so there are not false pretenses. It has to be larceny.

Now that you honed it down, was there a transfer and taking? He walked in and took it, carried it away -- he left. Was the person's property of another? Jackson's. Did he have specific intent prior if he told you he was going to break in and take the TV? All of the elements are satisfied. Now, look at your answer choices. And I can go right to the issue of larceny. Why? Because I have supported each and every element of larceny based on the facts they gave me and know it has to be the best answer.

You have to break apart the issue. In this case, it is the crime, determined based on the facts supported. For question number 2, A is correct. When you start doing this, you get a good feeling because you know you will get the answer. You don't have to look at the back of the book to know did you got is it right or not? It helps you better.

Question number 3. Always go to the call. Charges with arson under most modern statutes Mel will likely be -- well modern. Remember, you are responsible for common-law, unless dictated otherwise. Since it is arson for crim law, if it is the common-law, unless dictated otherwise, you will have to use the model Penal Code. Since this is modern, you will have to use model Penal Code.

Number 3. Mel is painting his car in his garage, surrounded by flammable chemicals. He steps outside to take a smoke break, and falls asleep with a cigarette in his hand. The cigarette ignites some fumes and burns the garage down. Charges with arson under most modern statutes, Mel will likely be:

Will he be acquitted or convicted? What will you need to show for arson? A malicious burning of the structure. Was it malicious? No, it was inadvertent, based on those facts, so I think he will be acquitted. So look at our answer choices. A says I can get rid of it. B, C, and D says acquitted because. I can eliminate one at a time.

B says limited because he didn't burn down a dwelling. Doesn't have to be a dwelling house under modern Penal Code, so get rid of that.

C. Acquitted because the garage was his own property. That's through common-law, but not modern, so that's out.

D. Acquitted because he did not intent to start the fire or manifest extreme disregard for the danger. D has to be the best answer choice. If they were testing common-law, now what would be the best answer? B. Acquitted because he didn't burn down a dwelling, C. Acquitted because the garage was his own. That would be not fair; that would be awful close, wouldn't it? So B or C would be a better answer choice if going under common-law. In our case, since we told you modern, D would be the best answer because the question told you. So for question number 3, D is the best answer.

You are starting to get the hang of this. How to break this apart and what you can eliminate, dissect. That is what you have to do.

Let's go to the next one and see what you do to break it apart for me. You read the call. This is a man guilty of murder. Remember with murder -- because you have the murder approach -- you have to show what's the malice? Intent to kill, intent to cause great bodily harm, want to reckless conduct of theft on the murder role. I will go in, based on the facts and see.

Question 4. It says a man went into a high school and took an unattended backpack. What is he committing? Unattended -- larceny. As he was slowly driving his car out of the school parking lot, he accidentally hit and killed a student who ran out from behind a parked car. Accidentally, so what's the mens rea? Did he have intent to kill? No. Intent to cause great bodily harm? No. It was accident. Was it reckless? No. He was driving slow. I'm having a hard time with my malice here.

Is he guilty of murder? Yes or no. No because and it says yes because, so can I eliminate right off the bat? No. I don't have supported facts of intent to kill because he is driving slowly, it was an accident and he accidentally hit. Did he have intent to cause bodily harm? It was an accident. He darted out. If he was speeding away, he might have had reckless. The last way to show malice is with the intent to commit a felony. Did the murder occur during inherent in his felony? What did what did we find he was committing? Larceny. It is not inherent in this felony, so I don't think he will be guilty, but let's see if we can tell.

A says no because the man did not intend to hit the student. Would he be guilty? You don't know so put a plus because you don't know. Put a plus. B. No because larceny of a backpack is not an inherently dangerous felony. We know they gave me the larceny and they are trying to get us to argue was he still within the res gestae of committing a larceny? If you are still within the res gestae, inherently dangerous felony, you are in a murder role.

I like the option B because it goes to an element of malice versus no he didn't intend to hit the student. Fact, not going to an element statement of the law. I like B better, so let's leave C.

Yes, because the man killed the student while leaving a crime scene. That doesn't support the malice. And D. The man could not have hit the student without being grossly reckless. Yes, you could. Accidental, so by process B has to be your best answer choice. You can see by forcing yourself to break this apart, you can see a couple of good answers and which one do you choose? I don't know. That's when you have to go back through.

You will get there, but if you look at it as a whole, you will not. You will be picking one of the two answer choices you narrow it down to. I get a lot of e-mails where students are frustrated because I get it down to the second best, but not to the best answer. That's because you are not breaking it apart far enough. You have to. If not, we're in the same boat and not doing well. Does everybody understand why for question 4, why B is the best answer choice?

There's some wiggle room to get the best answer. That's why you have to learn how to break apart the differences for the test. Again, for question number 4, B is the correct answer.

Let's look at question number 5. Again, what should you always do first? Read the stem, i.e., the call and answer the question. This is best. What I call a simulated exam. It could be torts, criminal law, you don't know. It will help you get the best simulated answer.

Question 5. This call says If Liz asserts a claim against Wong -- What does that already tell me? Torts. It can't be crimes because you won't have a plaintiff defending. You will have State prosecutor versus defendant -- for the injuries she suffered from the fall, she will most likely:

Looking at this I know I have Liz v. Wong, and I know it’s a civil action. If she's asserting a claim, they didn't tell me what type. I have to look, but it did tell me she suffered from a fall, so I know I have damages based on that call. Remember, except for intentional torts, all torts need what? General malice. That's important. Don't forget that element. That is why we break apart the elements and make sure the facts support each element.

Liz and her boyfriend, Lucas, were having dinner at the Golden Dragon Chinese restaurant in Chinatown when she excused herself to go to the bathroom. The restaurant was owned and operated by Wong. As Liz was walking past a table where Elliot, another customer, was seated, she slipped and fell on an egg roll that was lying on the floor -- So she slipped and fell. What theory are you thinking of already? Remember, she is suing who? The owner of the restaurant. She slipped on an egg roll, so I am thinking negligence. Nothing to put it there deliberately, so I'm thinking negligence.

Remember, with negligence, what do you need to show? You need to show a duty and a breach of that duty, that you are the actual approximate cause of that damage. Out of five elements, I need to be sure and break apart pursuant to the facts and sure it is supported. Where is she, by the way? Golden Dragon Restaurant. What duty does he owe her? In this case, Liz is an invitee, and as such, you have a duty to your customers to inspect and see that there are no dangers.

It says when she fell her head struck serving tray, which was located in the aisle. The fall caused Liz to suffer a severe concussion. Elliot knew that the egg roll was on the floor and, although he could have done so, he did not warn Liz. Now, who is Elliott? He is the patron at the table. Even though he knows, does he owe her a duty to do anything? Absolutely not. Omission; right? Again, Liz is suing against Wong for injuries. Going across your theories, it has to be negligence. We need to show a duty. She is an invitee and he has a duty to inspect any unknown dangers, doesn't he?

Was he aware that this egg roll was on the floor? It could have happened. Basically, someone who owns a restaurant has to be reasonable in regards to other invitees, and therefore, in this regard, he should have known there was something on the floor that a customer could be injured on, so I need to substantiate the fact that he had no knowledge whatsoever that he was aware of it, or he should have, in order to find liability. I know that on the testing the duty of the breach. I need to show he was aware of it, or something to show he breached the duty in order for her to prevail.

Looking at the answer choices, do I feel should she recover or not? A says recover because, B says recover if. C says not recover unless, D says not recover if. Well, you can eliminate that right off the bat. Based on the call, I have to see if this is if there's a prima facie case for negligence. I have to go through the options one by one. Let's look at option answer choice A.

A. Recover because the egg roll on the floor constituted an unsafe condition of the premises. It does, but not enough where he breached his duty. He has to be aware of it. If you go into a restaurant and drop something and I go along and fall, they are not going to be accountable. So answer choice A will not help.

Option B. Recover, if the egg roll was on the floor for a substantial period of time before the accident. Let's look at that again. If the egg roll was on the floor for a substantial period of time before the accident. What does that tell you? It was there for a long period of time and Wong should have known that it was there. So answer B looks like a choice, so I will put a plus by it.

C says not recover unless Wong knew that the egg roll was on the floor. Somebody might fall for that, but does he have to know? The test is he knew or should have known; right? So that's not a correct statement, so C is out.

D not recover, if Elliott was responsible for knocking the egg roll off his table. Does that sound good? It is foreseeable that people knock things over on to the floor at a restaurant, so it is your duty to make sure it is safe and you have a duty to make the premises is safe. If there's an egg roll on the floor, and if he did, then guess what? She has a cause of action against you. So it has to be option B. Because if the egg roll was on the floor for a long period of time, he breached his duty because he should have known about the dangerous condition and did nothing about it. The answer for number 5, B is the best answer choice. Again, you begin to understand how the process works and how you break this apart, and pretty soon, you get your answers correct.

Last question number 6. Again, look at the call. It says, which of the following is correct? It is telling me I have to read all of the answer choices. It says On October 1, Arthur mailed to Madison an offer to sell a tract of land located in Summerville for $13,000. Acceptance was to be not later than October 10 -- It says on the 1st, he e-mailed him an offer, and it took place before the 10th -- Madison posted his acceptance on the 3rd of October. The acceptance arrived on the 7th -- So when is an acceptance effective? Pursuant to the mailbox rule, you have an unequivocal (Indiscernible) offer, it depends on the dispatch.

When he placed his letter October 3rd we have a contract between Arthur and Madison. Even though it arrived on the 7th, it doesn't matter based on the mailbox rule. Now they are taking you back in time. On October 4th Arthur sold the tract in question of (Indiscernible) to the sale, so the notice of sale would be a revocation. When is the revocation accepted? Upon receipt. Based on these facts, on October 3rd I have my offer, acceptance, and now my consideration.

When he sold the land, Arthur breached. Now it says the letter arrived on the 6th of October, after Madison had dispatched his letter of acceptance, which is true? In my mind, we are testing the mailbox rule here. We have a valid acceptance which if valid is effective upon dispatch and I will answer in that manner. Let's go through our options.

Number A. There was a valid acceptance of the Arthur offer on the day Madison posted his acceptance. True, so put a plus. B. Arthur's offer was effectively revoked by the sale of the tract of land to Larson on the 4th of October. We know that's not true, why? Two reasons. Because I accepted first and even though I said I would keep it open and have to have an acceptance for October 10th, there's no option contract here. If there was an option, my acceptance would only be effective upon receipt because the mailbox rule does not apply to options, but that did not take place, so I know B is wrong.

C. Arthur could not revoke the offer to sell the land until October 10. Again, he can revoke at any time, prior to the time of acceptance, unless it was an option contract, which again, there's no consideration here and no option, is there? As long as the prior time acceptance, so we know C is incorrect.

D. Madison's acceptance was not valid since he was deemed to have notice of revocation prior to the acceptance. Based on the mailbox rule, acceptance is based on dispatch, so I know A has to be the best answer choice. With the mailbox rule in the time in regards to its effectiveness and timeliness, they test those. So you need to understand sometimes the fail on reliance. If I mail the letter of acceptance to you and before you get it I call you and say, I sent you a letter but I have changed my mind, and you rely on that and you now have a binding contract. You want to look at that area because it is highly testable.

For question number 6. A is the correct answer, based upon the mailbox rule which says acceptance is effective upon dispatch.

Doing these multi-state questions gives you a better understanding of what I call process of elimination. Remember, you make sure to start with the call to question, break out the elements, whatever the theory is, or the crime. Or if contractual, make sure you dissect it. The crimes or the facts, make sure it is supported. Hopefully, you can eliminate two answers right off the bat. Why? Because it saves you time.

I would recommend when you miss a multiple choice question, you need to figure out what I call the why. Even question 6 we did, and if I said answer choice D. Madison's acceptance was not valid since he was deemed to have notice of revocation prior to the acceptance. Why did I pick that answer choice? What is wrong with it? I didn't apply the mailbox rule. I thought that most likely the acceptance was when he received it. I forgot about the mailbox rule. That's something I might write out.

Again, that's where you will nail down areas and weaknesses. I need to work on and that is important. I don't need to work on my strengths, but I need to work on my weaknesses. When I read it a week later, so I make sure and put it in my memory bank that the one or two words of the facts, I will read it again so I won't fall for it again. Look to the answer choice and look to the one you chose to determine what is the difference between the correct answer and your choice? Merely reading the answers, is not enough. You say, oh, I know that. Then what happens? You miss it. Why? You have to answer that. I would take a clipboard and notebook which will help you narrow things down and see where your weaknesses are. That is so important.

Anybody have any questions on how to attack the multiple choice questions? In regards to how the lectures are set up, obviously we meet every Tuesday. You will be sent out -- like next week we will be doing tort review so you will be sent out a tort checklist and then I will go over with you in regards to torts. I will give you an idea of torts, how they come up in the fact pattern, whether essay or multiple choice questions, and the following week we will review essay, multi-states and the subject matter of torts. Then moving on to contracts, theory review, multi-states, crim law, et cetera.

You should have received a schedule, so this gives you an idea of what you should be studying. Like next week you will study torts. Looking at how the concepts are tested so you can get the idea, obviously, and you get the best answer choice, especially on the multiple choice questions.

Any questions? I highly recommend that you pick a date or a time to take a couple of hours and focus on this for you Baby Bar preparation studies. I know some you are still in school, but this is an important test. It takes no survivors. It gives you a good idea on how the concepts are actually tested. I would recommend that you take a Baby Bar review course, helping you to get more exposure to essay questions, multiple choice questions and how examiners test. Sometimes, even if you hear it from a different professor -- sometimes it makes the whole difference in the world.

If you have questions during your preparation, please feel free to send me an e-mail. I would be more than happy to help any way I can. Send that to jolly@taft.edu. Again, anything comes up, it is law, or multiple choice question that you don't understand, please let me know and we will work through it together. If you have no more questions, I will say good night and see you next week. Goodbye.

(End)