Tuesday, April 10, 2018

Taft Law SchoolSanta Ana, CA

Baby Bar Mini Series, Torts Review

INSTRUCTOR: Hello everybody, welcome to tonight's baby bar mini series. I want to point out that the session is recorded, and I want to point out that it's a review of what's tested on the baby bar. You pretty much know the law. I will give you an idea of how it's actually tested, and I will ask you if you have any questions afterward. If you have any questions, please post them in the chat box.

In order to do well on the exam, it's also a multiple choice question, you should be using a well-developed checklist to help you identify issues and how you're going to set up those issues. Especially under the pressure of the exam, we make silly mistakes. The purpose is to help you so you don't forget issues as well as how do I set this up and organize it.

So I throw up the idea of res ipsa, it's underneath the theory of negligence, and we need to know that before we begin. As we pointed out in the past, when you have a multiple choice question, you will look at the call of the question, that you will give you direction. On the previous baby bar, they ask you intentional torts. So you want to start there, and hopefully when you read the call specifically on the essay question, that gives you a direction on the particular subject matter tested. And if that's the case, I would recommend you write out your checklist on the scratch paper prior to reading the fact pattern. This will help calm you and get your mind focused. By reading the call, if you can tell what is being tested, I recommend you write it out on the test paper, obviously in shorthand or you will run out of time.

Couple things I want you to focus on. First, on intent, on an essay, how do I know how they want it addressed? It could be in the call, or if it's not, if I say, "Joe ran into Mary with his bicycle," do they want me to talk about battery or negligence? Or both? What I want you to focus on is the intent element. If you have an argument to sufficient intent, then you know that's the direction they want you to go. If I gave you more facts in that example saying, "knowingly", he hit her, and probably it's an issue of battery. And now or for instance he said, "deliberately" then I want you to know that I'm leaning toward battery.

{Audio stopped.}

False imprisonment -- physical or psychological, do you have a reasonable means of escape? And remember in order to recover for false imprisonment, what do you need? I need to either be aware of the confinement, right? Or damaged by it. So if you find that the guy is sick in the hospital bed and the nurse locks the door for the evening, and figures out what she did when she gets back, there was no fact he was injured or aware. Once he found out about it later, sorry, you can't bring about an action to prevail. You have to be aware to be damaged.

Trespass of land is very subtle -- it was on the last baby bar -- because we don't think about it. There, we try to trick you. We don't think about it. If I walk through your front door, well, technically you are in trespass of land, so we don't think about it. What you want to remember is it doesn't matter if the land belongs to another, so it doesn't matter. Did you have intent to walk there? So I could be walking on the sidewalk or roadway, it's a private sidewalk, I could be trespassing on someone else's land.

So there is trespass with another's chattel; so there is interference. So that's a different interference. So the five I gave you, false imprisonment, battery, trespass to land, trespass to chattel. And the transfer and intent doctrine will only work for those five. It will not work for conversion, or intentional infliction of emotional distress. Those are more modern torts. The first five I gave you, you can apply the transferred intent doctrine. So be aware of it. Remember it works because it shifts it from the actual victim to an intended victim.

Now, conversion, you need intent. It's the exercise of the wrongful dominion or control over the personal property of another. Is it a trespass to chattel or conversion? How do you know which way to go. Obviously in an essay, you could write on both, but again I don't want to waste time. What you want to look for is two things: One is a substantial interference, you know they want to go to the direction of conversions so I borrow your car for days, that would be substantial interference. Versus if there is complete destruction, that's conversion, so even though I borrowed it, it would be same as conversion because I destroyed it.

Then you have emotional distress. Remember in common law you need intention. When you see intentional torts being tested, especially if it's in the call, grab on two or more, if you just see one, there is a mistake, run through the checklist and see how many we can grab on it. If I give an example that Tommy is angry at Peter, "angry" means he is going to act with intent. So Tommy saw him, and jumped out of the car and pushed him on the ground. So based on the language, Tommy jumped out of the car -- and you might be thinking assault -- and pushed him, then you definitely have battery. And stood over him in the alley, that might be arguing false imprisonment, but does he have a means of escape? So it's battery, and that would be the two torts I would address. You are going to wreck the tort. If I see battery, I need to show intent, and harmful, and offensive. That's another element, and am I finished? Every tort has causation, actual cause and proximate cause.

With intentional torts, we can get away without talking about them, but I need to make sure that I'm aware they exist. If I forget that step, I might change the answer choice. So you want to be aware of it. So you look at damages and viable defenses. So you look at intentional torts. Sometimes that's an area where students don't write well. So you want to memorize it in the checklist approach. I rack the intentional tort, causation, whatever it is, damages, defenses. That's your set up when you see your intentional tort. So go through the steps.

So when can I shortcut it? Well if causation is not an issue, so I don't have to address it. Once you find an intentional tort, please look for defenses. We mix them up and think they're crimes. Can't do that, it's a problem so pay attention.

On the last baby bar which we will go over, there is some good defenses you could bring up, in regards to consent, which is an issue of necessity, you could go into the actual tort for a defense or mistake, but remember mistake is never a defense, it's still an intentional tort, but if was under a mistaken belief, you still did the conduct, you are still responsible for the intentional tort. Make sense? You will have to prove your damages, even if the call says what tort? You will still have to get to damages, because what is your recovery? What are you are asking for? So you will carry it through.

Do I have any specials or punitives? So if you see no actual harm, you remember you, as plaintiff, meaning the one that is bringing the lawsuit, has to show the prima facie case, and the law is you do need to show damage in order to recover, so you would carry it through.

Those are the intentional torts in a nutshell. You want to make sure you understand the transfer and intent doctrine and understand which ones they apply to. You can transfer the intended victim to the actual victim. So if I throw a rock at Mary and she ducks and it hits John, well, I meant to hit Mary, we can transfer the intent to John. That's from the intended victim to the actual victim. Versus intentional tort, so I wanted to scare you, and you fell and scraped your head, that would be battery. My intended tort was assault, but what resulted was battery. So you want transfer.

Post questions, and I'll be happy to help.

Negligence is an area you want to master. You want to do a good job on it. So with negligence you need to show a duty, a breach of the duty. It has to be the proximate cause of one's damages. That's your prima facie case. When you start with duty, what I want you to ask yourself is, is there a special duty based on the facts? I use an mnemonic, so the S is the statute, the O is the omission to act. And the D is the duty.

Can any of these be at issue here based on the facts? The one thing I want you to be aware of with violation of statute, you are a member of the class, I call it "icky". When you go through the elements make sure they work. A lot of times statutes on the exam falter and we take presumption. So you start off with special duty and move on that way. We don't have a general duty, unless you have a relationship or some promise, or I'm the one that created the act of peril. So in general, no, unless you see something in the facts or relationship.

Land or occupier does come up. There is a set up for this. What is my set up? I ask, is it invitee, licensee, trespasser, or known trespasser? I look at those first. You do want to be aware because status can change. I can be at premises. Say I go to the grocery store, it's open to the public there, I'm the invitee, and I see the sign that says, "employees only" and I go there. Now I'm not an invitee anymore. So your status can change and that's how you set up the exam.

Another area where they trick you, say I leave work tonight and go down, to Laguna Beach, and there are parking meters and I need quarters to pay for the meters. And I go into the liquor store to get change, and I fall and get injured. Am I an invitee? Since the store is open to the public, they are going to find you are an invitee. They are trying to rattle you. You aren't there for the purpose, so are they going to label you a licensee or trespasser?

If you go through, and if you are dealing with a child, when it falters, you will bring up the attractive nuisance problem. Because of the youth, and they don't understand the danger. And the owner has the reason to know the child is likely to trespass. You are going to break that down.

Other thing I want you to be aware of, in California we don't classify, we only have a general duty. On the exam, you are responsible, you will go through invitee or licensee, whatever is being triggered, if the status changes, go through as many as you can, if they fail, and in California, we look to a reasonably prudent person standard and apply it. Because California doesn't classify it.

They tested that year and a half ago in the baby bar, I was surprised. The one that runs the premises, the landlord, has a duty to the lessor of the land. And we're dealing with, he left old newspapers -- you may see this on the exam -- in a rental that he rented out to a tenant and a fire broke out. Again you bring up the issue in regards to the duties of the landlord, again comes up far and few but they do test.

Again, once you prove that the special duty falters, you look to general duty. You have your general duty as a prudent person standard. And a Cardozo duty. I want you to understand when it's triggered. When do you apply California law? When do you do minority rule? When you see Cardozo on the exam, you will do Andrews. There are certain things that are given on the exam that they expect us to do. So Cardozo and Andrews only comes up if you have a remote plaintiff. This is generally comes up on the exam is it's generally wrong. Because people don't understand. You are looking for, how did you get in the picture? Why are you suing me? Who are you? It's a remote plaintiff. If I am in the car accident, and the store across the street is suing me, there is no correlation why are you suing me? That comes up, and it's an issue that people bring up all the time, but they don't understand it.

And you have children, remember 0 to 7, 7 to 14, and unless they are involved in adult activity. So snowboarding, mopeds. I'm trying to think of the new device which they are using now but it's dangerous. I would argue it's an adult activity.

Common carrier, it's harm duty to who? It's occupant of a train, plane, boat, or bus or whatever it is. So knock those outside. It's inside the common carrier. The rule of thumb is when you see negligence, start with the special duties and when they falter, go to the general duty.

And then you have your breach. Breach ipsa generally comes up far and few, but you should know it if it is tested. They used to tell you in the facts there is no evidence as to how the door fell. But they've gotten smart, they use the term no evidence. They know we picked up on that, there is a res ipsa problem. We don't know what occurred. You go in to have an operation, and you wake up and something is a sponge left inside, who did it? I don't know, it's a res ipsa problem. You can't point your finger and determine who or why the breach occurred. You are walking down the street, and you get hit by an umbrella, who did it? I don't know. It's a res ipsa problem. So you are showing cause of action and that party is the breaching party, and they can rebut it. If I ran into my car, well, you know it happens. It's when you can't determine.

You also have causation. You will need to know, it comes up a lot. It does exist in every tort. So you want to break it apart. What does that mean? Well, you have "but for," so but for you hitting me, I wouldn't be injured. You have successive tortfeasors. That's when you have two independent negligent acts that caused a result. So they come together. So I hit your car, the doctor gives you the wrong medication. That's two independent acts but they cause a similar result. So you can sue the first tortfeasor for both.

The other area is proximate cause -- I promise if you break apart the steps it's not a bad concept. What does that mean? The first thing you will ask yourself is, is it a direct act? If you hit me, it's foreseeable. Or they will test, if it's direct or indirect act. If it's indirect, then I go, is it dependent on your act or independent? Is it foreseeable or unforeseeable?

So say I leave here, there is an accident, and the paramedics come out and the paramedic gets hurt. Now he is suing me. Is my conduct in the car accident a direct result of his getting injured? His act was indirect. I put the chain in motion, it would be dependent. Is it foreseeable? Is it unforeseeable? Negative acts are always foreseeable. What is not foreseeable?

Generally criminal acts, can that change on you? Sure. Criminal acts are not foreseeable, but it's saying it was. There is something you missed. They are saying it's that they were aware of it in advance. Or someone was outside robbing people. Is it foreseeable that you were going to commit burglary? Yes, it is. Then you have damages, and you have defenses.

So once you prove your prima facie case, I want you to go through your defenses. I use CLARC, contributory negligence, the L is the last clear chance. If I find the plaintiff was contributory negligence I'm going to use the last clear chance to try to save it. That's a plaintiff argument. I want to argue, wait a minute, you had the last clear chance to prevent it. And you have to comparative negligence which is apportioned according to fault. When you have assumption of risk, when you do see defense as issue, when they come up, one, it could be based on the call of the question or on the facts you will know. If I see defense is at issue, I know I have two or more. And contributory negligence and comparative negligence is a question of jurisdiction. I already know I have assumption of risk. Defense is two or more, and basically contributory negligence or comparative are just a difference of jurisdiction. And I can look and see if I can argue last clear chance. You want to be very strong in this area, it's testable. And it's something you need to know.

Questions about negligence? All right, the next story on the checklist is strict liability. Two areas. Number one is animals, they test for the known propensity. There is one known fact pattern, there is a snake and he is defanged. And here is the workman on the property and he has the snake coming at him, is that strict liability? Yes, because I didn't know he was defanged. Versus if they tell you in regards to -- again you are looking for its propensity, say it's a horse that is trespassing. An actual horse or a mountain lion. What is their propensity? Here they are going to hurt me and maul me or step on my foot? That's not its known propensity.

That would not be strict liability versus another way is other abnormally dangerous activities. You have to be clever, dynamite, blasting, crop dusting. They had one with an exterminator who was hired to do a day care. I would argue that's strict liability, that doesn't mean it would succeed. You can't look at chainsaw or knives. The court will carve that out. Otherwise electricity. That's not strict liability. We wouldn't have electricity if we classified it as a strict liability. It's imposed regardless of the fault. With strict liability on the land, you still have causation and damages and look for your defenses. You have to carry it all the way through with strict liability.

If you have multistate versus negligence, strict liability will always be the better answer choice. The other thing to be aware of in an essay, if you sees strict liability look for cross overs, that would be private nuisance. If I sees something recurring that's a nuisance, I could see strict liability with blastings. There are two torts that you would have to break apart. That's your strict liability.

The other area is product liability. It has been tested a few times. With products liability, first, here is a hint, there is a liability. If I knew it's a product exam, I know it's negligence, and merchantability and strict liability on the tort. I know these three concept are at issue. It's a manufacturer, retailer, or distributor. Theory is you have battery. But you have to have knowledge. They are aware.

So there is one out there large medicine, it caused blindness, that would be battery. You have to disclose it. Remember, we went over negligence, the language is a little different. You have a duty to inspect, discover, and correct. It's different from a reasonable prudent person standard. Get your language down. You have to show the type of defect. I do that in my breach. Is it a manufacturing defect? Showing it's different from the rest of the product line. A warning defect? Or design defect, where it's dangerous in its design.

So an example is the incline skates, when they first came out they didn't have brakes. People not being able to stop is a potential problem. That's a design defect.

Remember, you have to have causation, damages and the same defenses. You have warranties, express warranty, and implied warranty, and fitness for a particular purpose. The product is for average use, or it wouldn't be defective. With express warranty, you will look at the facts. It's questionable when they told you in regards to space travel that we are sure we have taken precautions with safety measures, but it's still inherently dangerous. Is it an express warranty if I tell you it's the greatest product on the earth and it's not, is that puffery?

You should also be looking for fitness for a particular purpose. Those, there is tendency to go together. If I see some representation, most likely you will see it on the product itself. It's rare they will tell you, the seller said to the buyer. It's rare they will do it that way.

They said this bicycle helmet will last in any crash, guess what? A guy gets in an accident, and it cracks in two. That representation was false and it didn't last, it cracked. I would argue that it was a particular purpose it's protecting your head, and that's what it did. That's how it comes up. You see a product in regards to some lotion you are using to help with acne or something, and says safe and wholesome, yet you break out, it's express warranty as well as fitness.

So the general rule again is when you have express warranty you will discuss the implied warranty and fitness. So I stated to you, what theories do we have? Negligence, applied warranty and merchantability and strict liability and tort, so I know I have those three. So you focus on the call, its fitness theories and go and break it apart. There is one in regard to a child who throws down a banana peel. I wouldn't bring up the other things.

Of course, the last tort in products is strict liability and tort. Here is where you have an inherently dangerous predict. Defect damages and purpose. All these theories have causation damages and defenses. You want to break it apart and go through them.

Before we go to the next category, remember with negligence, you can still have manufacturer, distributor, or retailer of products. One thing with a retailer is if a container -- if I get milk from Ralph, and it's bad, unless they had some knowledge, they didn't breach. They will still be on the hook for strict liability and tort for merchantability. And be careful with the retailer. They have to have some knowledge. It's not their job to open every package before they put it on the shelf.

So it's highly testable, so be aware of it. In regards to the chainsaw, plug it into the multistate. I think the electricity is inherently dangerous. Of course it's dangerous, knives of course they are dangerous, but the law says, no. So learn them.

Vicarious liability. How does this come up? Remember you are imputing employees' conduct on the employer. So you are an independent contractor, so you are not responsible unless it's an undelegable duty. Like say it's an amusement park and I hire someone to fix rides and all that stuff. I'm homeowner, and I hire someone to come and cut down tress. You can't delegate that. I still have a remedy. I go after the one I hired for their negligence. And of course, maintenance of your vehicle. If I get the brakes fixed, and I run into somebody because they don't work, I'm still responsible.

Say I'm not going to divulge the information about who fixed my car, or I bring them into the suit with me, it's a policy reason which makes sense. Your parent child, you can be, it's not always responsible for your child, but based on knowledge you can be.

And bailor-bailee, they are testing on the multistates. So if you entrust somebody or they create that situation, say you go out to dinner and I set up a stand of valet parking, the restaurant doesn't have valet parking, but if they have that situation, and they caused the situation,and didn't do anything about. And I'm a thief, and I drive off with your car.

There was a baby bar, that was a whole exam, if you see nuisance you better break part public versus private. It dealt with an a siren, and a woman had a cabin to go bird watching and the siren kept going off. She had a public nuisance and private nuisance. You would break it apart and find your elements.

Remember you have your causation and you need your you damages. I told you earlier, when you see strict liability on the line you should look for nuisances too. Those go together.

The bar is getting more brazen with testing cross overs. I want you to be aware of it. If we don't ask or see, we don't get.

Everybody hear me loud and clear? All right.

Defamation. Defamation is a tort that students don't do well on. I don't know why. If you break apart your elements, you should be fine. First, is it a false statement or mere opinion? Is it a fact or an opinion, you are a snob, is that an opinion or a statement? I believe you are a thief. Now we are getting closer to crossing the line. So look to the language they are using. We will go over many times of breaking apart the language. Use the punctuation, what they are giving you, you can emphasize the verbiage you'll know which way they want to go. That's borderline because of the word "belief", but you are a thief. That's a belief.

Again on an essay, you will know, one is going to work, one is going to be opinion, one is going to be arguable. And the other is defamatory, that's going to be the issue. If they test a thing a few times, one is a slam dunk one at either way, and the other is going to fail. Understand that?

That's correct versus you are, absolutely. See how that is questionable? Absolutely. Now again you have to show it's published intentionally or negligently. If I can show you published this intentionally? What does that mean? I'm going to punitive damages. Defamation can be an intentional tort, yes, it can. They call this an intentional tort. When you read that, you knew they wanted defamation, but it wasn't on the checklist, go with your gut, if it's done, it's an intentional tort.

Publish to a 3rd party. That's what triggered your libel pro quod. Innuendo and inducement go together. If I say, Mary is pregnant, big deal, but now I show you that Mary's husband has a vasectomy. So now I'm showing that she is promiscuous. The colloquium is a group. And if you specifically narrow down a group, those at Triple A that do that, now you are more specific of identifying the group, so libel pro quod colloquium, you will show defamatory meaning. Once you have, once it's published, libel is in written form.

Slander is something you hear by the ear, but the more permanent it is, we will lean forward libel. Anything stated in the newspaper or radio, whatever, what about the broadcast. They label that permanent, it will stick with you. You see it on television. Why is that important? First, it's libel, general damages are presumed, so you will recover. If you want special damages, you will have to prove them. Versus if it's slander, you do need to prove general damages in order to recover unless it's slander per se. What is slander per se? It's where we put it into the category of the crime, loathsome disease, unchaste female or business. So if I can put it in a special category, they will say it's slander per se, and in general damages it will be presumed.

Again, with defamation, you want to make sure it's a defamatory statement, so published intentionally or negligently. Is it libel or slander? So you will look for defenses.

So you have qualified privileges, constitutional privileges, and absolute privileges. Now with qualified privileges, husband wife, stuff like that, in regards to good faith belief that I tell your employer that you are stealing. Constitutionally qualified is when you have a media. And that's freedom of press, what that means is when you see this and argue, the issue is, if I do find defamation, the false defamatory statement, then you see the media arguing constitutional privilege, the issue is they have to show the standard of malice. So if you are a public forum or official, your burden heightens and you need to show actual malice to continue or they won't allow recovery. That's the reason is you put yourself in the limelight and thrust yourself in the public eye.

The general rule is you will see constitutional privilege when you have a media defendant when you are going after the newspaper or something like that. And you have the executive privilege. When you see the president and stuff like that, you will know. The one area, is make sure the elements are met. If I have in court an ugly divorce, and I say my husband is a horrible person, if I go report that to the newspaper, can I argue privilege? Not any more. Because the proceeding are going on, so that won't protect me from defamatory privilege. The other thing I want you to be aware of, if you see a plaintiff suing the newspaper, what does that tell me is an issue? So it's a false statement, it's defamation, and vicarious. Whenever I see a call that you are bringing a lawsuit against an entity you have to show the vicarious liability. It's somebody acting on the entity's behalf.

Now when you do see defamation, cross over torts, what can come up with defamation? If it's an intentional defamation, I'll go after intentional infliction of emotional distress. I want as much money as I can get. I will go through the invasion of privacy in the false light in the public eye. So defamation and false light in the public eye have a tendency to go together.

So I'm going to the intentional infliction of emotional distress.

With the invasion of privacy you have four categories, of you false light in the public eye, intrusion of seclusion. And appropriation of likeness. You can't really hide that one from the intrusion upon seclusion, they will have to give you some information that you went beyond too far in decency based on the facts. You have to make sure that it's a private fact. Like police reports are not private. They are not. Try to get one, but they are not private. Those you may do by mistake and learn that way.

Appropriation of likeness. People don't understand that word. If I take your photo and sell it? Appropriation of your likeness? If I sell your picture, I can do that. You have a commercial gain on me, you sold it and got five bucks. That's how the rule is, but not how to works. You are using that image to benefit your business. If I take your picture and say look who comes to my establishment then you have crossed the line. Otherwise we wouldn't have magazines, if I'm selling the photograph, if I'm taking the image of that photograph, saying, look who comes to any gym or bought cars from my dealership, or whatever, I'm using the image for commercial gain. That's the no-no. Taking a straight picture, that's okay. Again if you show impute it to your business, that's crossing the line. So you want to play with it because it does come up on the multiple-choice questions.

All right. What else do we have? We have business torts, you have interference with contract and perspective advantage. So you don't see these much on the baby bar. They are intentional torts. I can't hide it from you. Misrepresentation does come up. That's also known as fraud or deceit. Those are all interchangeable so it's frustrating, so you have intentionally, in regards to making a representation to do something, so somebody relied on your statement. So you don't know the answer, disclaimer. Does your home have termites? No, it doesn't. But I should have known. That's a negligent misrepresentation. Remember fraud is a -- you see a lot of times with products liability, it's endorsing the product, I could use the theory of negligence, they had a duty and breached it based on the representation. They represented it was faulty, and they have an obligation as an endorser, they have a duty to say what it is said to be.

I'm taking a step back with vicarious liability. I want you to understand that -- that I'm suing a guy that somebody hires to drive a delivery van, and sends him to a doctor to have him checked out, and doctor discovers he has epilepsy and doesn't tell the employer, and the van goes off the road, and we don't know if it's based on that. So why are we suing the employer? For two reasons, one, for the employer's negligent hiring. Based on the fact he did everything he could, so I really don't find he breached his duty. But for his vicarious liability for the employee and to show the employee's negligence. You have to understand that there are three issues under the employer. His negligence for hiring and vicarious liability. And you need to show the driver's negligence in order to recover. That's important and people don't see it, and it's a whole tort.

Negligence is a big tort. Negligent infliction of emotional distress, foreseeable injury or result. Or you could see the 3rd party bystander rule.the other thing you will see on the multistates is I will use the word "trespass". There is intentional trespass or negligence and you need to know that. Do I need damages for intentional trespass? If it's negligence, you have to have damages. Look to the facts. If I have an airplane, and I have engine problems and I land in the farm and wreck the farmer's crops, versus, if the plane inadvertently falls from the sky, that's different.

So you want to know how to break it apart. So the more you start practicing and understanding how the examiners test, that will breed your success. So you probably understand the concept, but do I want the application; that's where we falter, people don't realize we assume you know the law. I assume you have a good definition. We assume you could sit down and talk to me about it.

But, do you understand its application? And that's why they test the way they test. That's why it's hard in law school, it's application, they want to see that it can raise this issue and this issue, and here is our problem and you need to be able to identify that. If you can't identify that, that's where you will lose point value.

As you can see, torts to me is going to be tested rule oriented. You need to know your rules and how they test the nuance. So you will see the consistency where it's a proximate cause issue. Once in a while, it's res ipsa. You will see the areas like this to test over and over and you should master them before you go in the exam.

Anybody have any questions in regards to the defamation? The invasion of privacy or your vicarious?

Yes, all these sessions are recorded. If you go to Taft website in the student section and click on the baby bar series. It will be posted to remember or Thursday. We will send out of the lecture for next week.

I'm the kind of person by doing is going to help you learn more and doing breeds your success. So I recommend you break apart your checklist. You have to be efficient with the study, because the exam will be here before you know it. So I will say I worked all day, and I will study intentional torts and I will do some M Bs and events and just in intentional torts, and break that apart, I want to find my weaknesses, I will find them real fast if I break them into blocks. If I get 100 M B Es and I get 50%, and I don't know torts at all. If I start by dissection and break them apart with the checklist, I will know I have a problem with defamation and nuisance, and now we have isolated and we can work on those special areas. If you look at it as a big broad one, that's where we get into trouble. So break it into specifics.

So same thing with taking essays and multistates. You want to break it apart and hone in where your weaknesses are. So I didn't know I could discuss supra and save myself some time and you do and compare it to the answer, and look at it as a diagnostic. Why is mine different here? So a lot of times, students say, mine looks like the model, it probably doesn't. Learn from the model. It's a perfect paper almost. Could you do that in the pressure of the baby bar? Probably not. There are time constraints involved. We want to strive as high as I can. So I have a cushion.

At this point what will happen is you will be sent out an essay question, 33 multiple choice questions to do on the weekend. What I would like from you, is email them to me and I will pinpoint them. This is where we have problems, sometimes we communicate things and know that the whole class is missing this whole area. Also on the multiple-choice answers, you will get the answers, but if you have questions on those I'll go over those. This is your class and I'm here to help you go and pass. Everybody is different. If you don't understand one and eight and nine, let me know and we will talk about it. If you are the only one to talk about it, this is just your class. It's important to understand why. If we don't figure it out, we will make the same problem over and over. And sometimes the law just says No. This is how we learn.

Anybody have any questions? Now if you do have any questions throughout the week during your preparation, let me know, I will be happy to help in any way. No one likes to write, I have to write them every time the baby bar publishes questions. Writing is a vulnerability to us, but the more I can expose you to it. You can have half the exam done before you walk in the door. I understand the issues and I can lay them out in the fact pattern. Really work on it and it will make a big deal of difference.

If you work with another group, that's good. Feed off each other. If you are meeting with people, what I recommend, and what I used to do, I take any study time serious, we would have several essays prepared to write and we switched answers and they had grade mine and I would grade theirs. Why did you do this and why did you do that? And you can see where the other person is coming from, and you can compare the answer, that gave me a perspective. So you go to an idea, how they see on an issue, so you can see the fact pattern, that this is the issue. Sometimes reading the model answer doesn't tell me, you didn't see the word "notice" or "knew", talking about it sometimes making a difference. Okay. Keep studying. Torts. We still have time. We will go over essays in torts next week. Be sure you have a study schedule. You can't waste time and you have to be realistic. Give me an hour a day if you can and buckle up.

Good night.