August 10, 2021

MBE Lecture:

>> PROFESSOR JOLLY:

What subjects are covered for the Baby Bar MBE questions?

Torts, Contracts/UCC, and Criminal Law

\*The testing in Torts are directed towards elements, and the black letter law.

\*The testing for contracts is more demanding in reading comprehension. The fact patterns tend to be long and lengthy. So you need to break it apart.

And the last is criminal law.

The testing for criminal Law also focuses on elements and the black letter law.

The MBE exam is an objective multiple choice exam with four answer choice options. The questions are mixed and not given in order of the subject matter.

All of the MBE questions are worth the same point value. The score is based on the number correct and converted to a 400‑point scale.

A MBE question is comprised of three parts; the root (fact pattern), stem (call of the question) and the options (answer choices).

When reading an MBE question, you need to read the facts carefully. The examiners know that we do not

Read in detail and that is how they test. Look to the operative language. The fact pattern often turns on the details in the facts. You need to determine what is relevant and irrelevant in the facts.

Then work on you speed reading later.

\*How to read an MBE ...

When taking a MBE question, always start with the stem of the question (call) this will narrow down the specific that is being tested. Once you have read the call of the question, than read the fact pattern carefully.

Mark up the fact pattern based on what you see from the facts.

Make sure that you are answering the call of the question.

General rules concerning the MBE:

You need to look at it; what are they really asking?

Do not assume facts.

How are you going to read a multiple choice question? Always start with the call of the question, the stem.

Don’t make the problem harder than what it is. Keep it simple. If there are multiple ways to interpret a question, one making the problem straightforward and the other making it complex, choose the straightforward interpretation.

Look for triggering facts while reading the exam. If you see a statute on the exam, break the statute apart by the elements. Read the statute carefully. Most students would not apply the given statute in the fact pattern, and the examiners know this.

You can't. You've got to break it apart and see what that stature requires. It's very important.

If a question is specific, example which is the best defense, which claim will succeed, you need to re‑write the call of the question.

Example: Which is the best defense – rewrite to ‑ Based on the facts what will support Defendant not being guilty.

\*

It can be a 'can' argument.

Example: Which claim will succeed ‑ rewrite to ‑ Which is the only claim that will succeed based on the facts.

If you see an MBE question with 'because' or 'since', these are conclusions.

Therefore, everything after the 'since' or the 'because' will be true. Let’s take a look at Example #1 and see how this works.

Let’s look at an MBE question and process it together:

Example #1

In the State of X an assault is defined as an attempt to commit a battery.

I've highlighted in regards to what the actual assault is right?

I want to understand what my definition is supposed to be.

As Pete was walking down Main Street, he dropped his cell phone. okay. As he went to grab the phone while in the process of dropping to the ground, he hit Mary ‑‑ so remember, he is charged with assault ‑‑ 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:

A. Guilty, because he caused apprehension in Mary.

B. Guilty, because he should have been aware of others around him.

I can get rid of Options A and B without even reading them.

C says: Not guilty, because he had no intent to touch Mary.

D says: Not guilty, because he did not intend to touch Mary.

Looking at all the answer choices, they all look bad. Hence, we apply the process of elimination. If you believe the answer is he is not guilty you can illuminate answers A and B since they have a modifier 'because', 'since', and 'as' are modifiers. If an answer choice uses 'because' or 'since', you can illuminate 2 answer choices right off the bat.

Thus, that leaves answer choices C and D.

However, let’s look at all the answer choices:

A. Answer A states ‑ Guilty, because he caused apprehension in Mary.

In looking at the statute it states … An assault is defined as an attempt to commit a battery.

Answer A only requires a showing that Pete caused apprehension. The answer choice leaves out the

Mens rea element. Thus, incorrect.

\*\* Attempt – you need to show specific intent

B. Guilty, because he should have been aware of others around him.

The mens rea based on the statute is specific intent. Answer B suggests he should have been aware. A negligent standard. Thus, incorrect.

C. Not guilty, because he had no intent to touch Mary.

Answer choice C correctly states the mens rea in the statute. Hence, looks like a good answer.

D. Not guilty, because he did not intend to touch Mary.

Answer choice D sounds good. However, the language did not intend is not specific enough compared to

answer choice C. Therefore, answer choice C is the best answer and is correct.

Remember, you are to choose the best answer. As in the example above, there are 2 correct answers but

one is better than the other. This is how the MBE are tested. You need to beware of this for your

preparation.

Now let’s look at other modifiers ‑ “if” and “unless” when you see a question that is using 'if' as a modifier, everything after the 'if' must be true. As for the answer choice, using unless' as a modifier the best way to attack this kind of answer choice is to re‑write the answer choice: To No or yes if.

Let’s take a look at another MBe question.

Example # 2

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. 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.

Okay, now, if Sam asserts a claim based on misrepresentation ‑‑ now you need negligent representation of a material face ‑‑ against Tammy, will Sam prevail?

She's not obligated to make a representation.

A says Yes, because ‑‑ don't have to read it.

 Tammy knew of the true value of the inventory.

B says: Yes, if Tammy did not inform Sam of the true value of the inventory.

C. No unless, Tammy told Sam that the stock was not worth more than $6 a share.

D. No, if Chemco’s financial statement was available to Sam.

How would we review the answer choices?

A‑ Because modifier: Based on misrepresentation is Sam going to prevail. You need to go through and find that the elements of misrepresentation are satisfied. In going through the elements of misrep, Tammy did not make any representation to Sam. Hence, A is incorrect.

B‑ If, as a modifier. Everything after ‑ If must be absolutely true. Yes, If Tammy did not inform Sam of the true value of the inventory. Now go through the elements. Did Tammy make a false statement? NO. B

is incorrect.

C‑ No, unless, re‑write to Yes, if and after the if is everything else true. These facts support a false

Representation of facts which satisfies misrepresentation. C looks correct.

D‑ No if, everything after if true. The facts of the financial statement do not support a misrepresentation.

Do we have a false statement? No; thus, D is incorrect.

When taking an MBE, make sure you apply the rules/elements of the concept that is being tested.

Example #3

Tillie Taylor was a member of the Children of the Earth.

It's very specific isn't it? False imprisonment.

So when I read the fact pattern, I want to make sure that the facts are supported.

During one of the organization’s group encounter sessions, Raj Reel, the group's leader who knew that Tillie was a paranoid schizophrenic ‑‑ that's good ‑‑ 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.”

What element did that just put at issue?

She's afraid to leave, psychological confinement.

In an action for false imprisonment against Raj and Children of the Earth, Tillie will most likely

A. Recover, since Tillie’s confinement resulted from the implicit threat on the billboard.

B. Recover, since Tillie’s confinement was psychological and Raj knew that Tillie was a paranoid

Schizophrenic

C. Not recover, since the defendants did not intend for her to be confined in her home.

D. Not recover, since Tillie was under no constraint to remain in her house

C is the best answer. For false imprisonment you need a showing of intentional physical or psychological

Confinement of another. – This is an example of how you need to break apart the elements of false imprisonment.

There is psychological confinement present; however, there is no intent. Prime example of how you need to break apart the elements and make sure that facts support the elements.

Now that you are experienced, let’s look at a few and see how you do.

Question 1 is based on the following facts:

On November 1, 2009 Mozart entered into a contract with Thomas to play the piano in his night club 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 night club 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.

Oh, so he's supposed to be playing when? New Year's Eve.

May Thomas bring the lawsuit now?

And look at the answers ...

A. No, because Thomas must wait until December 31, 2009, to see if Mozart performs.

B. No, since the contract was no executor.

C says yes, because Mozart repudiated the contract

Well, that looks true.

D says yes, since Thomas will lose profit without a headliner.

So I can eliminate options a and b.

Answer C is correct. For anticipatory repudiation you need the contract to be executory, and you need express

Words of repudiation.

D really goes to damages.

Let's look at Question 2.

Question 2 is based on the following facts:

Biff goes to Jackson’s house at 3:30 p.m. intending 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.

Well, looks like there's a larceny because he didn't take it by force.

You see here, it says: the most serious crime that Biff could be convicted of is:

(A) Larceny.

(B) Robbery.

(C) Burglary.

(D) Embezzlement.

A is the correct answer.

Why larceny vs burglary

Question 3 is based on the following facts:

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. Charged with arson under most modern statutes, Mel will likely be:

Before you read the answers, what do you need for arson? Right? Malicious means not intentional.

(A) Convicted, because his actions were reckless, sufficient mens rea for arson.

(B) Acquitted, because he did not burn down a dwelling.

(C) Acquitted, because the garage was his own property. That would work for common‑law.

(D) Acquitted, because he did not intend to start the fire or manifest extreme disregard for the danger.

Well, that is true; it's just a structure, right?

D is the correct answer.

Remember the call of the question is testing Modern arson.

Question 4 is based on the following facts:

A man went into a high school and took an unattended backpack. Thinking about larceny, right?

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. Is the man guilty of murder?

What did they just put at issue?

Anybody? How about felony murder rule? Oh, right?

(A) No, because the man did not intend to hit the student.

(B) No, because larceny of a backpack is not an inherently dangerous felony.

(C) Yes, because the man killed the student while leaving a crime scene.

(D) Yes, because the man could not have hit a student without being grossly reckless.

B is the correct answer.

Question 5 is based on the following facts:

Probably looking at the theory of negligence, right?

Liz and her boyfriend, Lucus, were having dinner at the Golden Dragon Chinese restaurant in Chinatown, when she excused herself to go to the bathroom.

So we are thinking tort based on the fact pattern.

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. When she fell, her head struck a 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. If Liz asserts a claim against Wong for the injuries she suffered from the fall, she will most likely:

Now, let's break this apart.

First thing is what's the theory? We're looking at negligence.

(A) says recover, because the egg roll on the floor constituted an unsafe condition of the premises

True, but if Wong didn't know about it, he didn't breach a duty right?

(B) Recover, if the egg roll was on the floor for a substantial period of time before the accident

He has a duty to inspect discover the time period to warn me about it.

(C) says not recover, unless ‑‑ now, remember we're going to change that to recover, if ‑‑ Wong knew that the egg roll was on the floor

(D) says, not recover, if Elliot was responsible for knocking the egg roll off his table

B is the correct answer.

Do you see how we broke it apart?

Question 6 is based on the following facts:

You guys are awful quiet tonight.

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 no later than October 10th.

So he mailed the offer; I have that.

Is it an option? I don't know.

Madison posted his acceptance on the 3rd of October. The acceptance arrived on October 7.

So at this point, do we have a contract?

We already had a contract.

On October 4, Arthur sold the tract in question to Larson and mailed to Madison Notice of the sale.

Is there a valid contract? Did anything change based upon me creating an option? The answer is yes.

It says, that letter arrived on the 6th of October, but after Madison had dispatched his letter of Acceptance.

Which of the following is correct?

(A) says, there was a valid acceptance of the Arthur offer on the day Madison posted his acceptance.

(B) Arthur's offer was effectively revoked by the sale of the tract of land to Larson on the 4th of October. So B is incorrect.

(C) Arthur could not revoke the offer to sell the land until after October 10.

Is that true? No, it's not in this case.

(D) says: Madison's acceptance was not valid since he was deemed to have notice of revocation prior to the acceptance.

How did he have notice?

That doesn't make sense, right? So D is out.

So A is the correct answer. Based on the mail box rule the acceptance is effective upon dispatch.

\*\*Did these few MBE questions give you an understanding of how to process and eliminate the wrong answer

choice.

When you miss an MBE question you need to figure out the why. Look to the answer you chose and determine

why you chose that answer versus the correct answer. Merely reading the answer choice is not enough. If time

Allows you can write a flashcard on the missed questions.

>> PROFESSOR JOLLY: And so and.

>> PROFESSOR JOLLY: And.

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>> PROFESSOR JOLLY: So.

>> PROFESSOR JOLLY: And baby bar and baby bar and so and Baby Bar and Baby Bar and testing. Testing. Test. Testing. Taft.

>> PROFESSOR JOLLY: Don't assume let's break it apart with the facts and ensure it's supported. That's important. So the food new‑‑ good newyou need to make sure whatever tort you're finding based on the facts is supported with those facts.

\*The testing for contracts is more demanding in reading comprehension. The fact patterns tend to be long and lengthy.long and lengthy. So you need to break it apart.It is something that you need to dissect and break apart. I highly recommend you take contracts in the offer context, and see where you're at. If you form the contract, don't go back up the chain. You can't, you've already formed the contract.

And the last is criminal law.

\*The testing for criminal Law also focuses on elements and the black letter law.

The MBE exam is an objective multiple choice exam with four answer choice options. The questions are mixed and not given in order of the subject matter.They're mixed questions. So it's your job to determine if it's a tort contract or criminal question. So you need to look at that. How do you tell? The first thing I always tell students is read the call of the question. All start with the stem, the call of the question. It's usually just a sentence, right. But that will narrow you down and give you direction as to where you're at, subject‑matter‑wise. And say it's a tort question, they may direct you to the underlying issue of battery or whatever the case may be. When you are reading a multiple choice question, read the facts carefully.

A MBE question is comprised of three parts; the root (fact pattern), stem (call of the question) and the options (answer choices).

When reading an MBE question, you need to read the facts carefully. The examiners know that we do not

Read in detail and that is how they test. Look to the operative language. The fact pattern often turns on the details in the facts. You need to determine what is relevant and irrelevant in the facts.

Then work on you speed reading later.

When taking a MBE question, always start with the stem of the question (call) this will narrow down the specific that is being tested. Once you have read the call of the question, than read the fact pattern carefully.

Mark up the fact pattern based on what you see from the facts.

Make sure that you are answering the call of the question.

General rules concerning the MBE:

You need to look at it; what are they really asking?

Do not assume facts.

How are you going to read a multiple choice questoin? Always start with the call of the question, the stem.

You need to look at it; what are they really asking?

Do not assume facts.It's difficult. I'm slowly getting used to it. I'm used to marking up a fact pattern and handwriting out my outline and then typing it out. But it's a different beast when you read things on the computer versus when you're reading it in a text format on your desk or in a book, right.

So we need to train ourselves a little differently. Mark up the fact pattern to determine what the facts are trying to get you to focus on. So if Joe called Mary, I'm going highlight the word call, I'm thinking statute of frauds, right. That's important, because I don't want to miss the statute of fraud. And look to what happened between the parties to determine whether or not there's an offer on the table.

Do not assume facts.

How are you going to read a multiple choice Life isn't hard; people make it hard. Don't change things. Just keep it as simplistic as you can. ‑‑ simplistic. Don't make it too complex.

Don’t make the problem harder than what it is. Keep it simple. If there are multiple ways to interpret a question, one making the problem straightforward and the other making it complex, choose the straightforward interpretation.

Look for triggering facts while reading the exam. If you see a statute on the exam, break the statute apart by the elements. Read the statute carefully. Most students would not apply the given statute in the fact pattern, and the examiners know this.

You can't. You've got to break it apart and see what that stature requires. It's very important.

If a question is specific, example which is the best defense, which claim will succeed, you need to re‑write the call of the question.

Example: Which is the best defense – rewrite to ‑ Based on the facts what will support Defendant not being guilty.

It can be a 'can' argument.Mary's best defense might be able to show that it wasn't a taking versus the issue in regards to let's say consent, right. It's best to knock it out to the Element of the crime versus an underlying defense, right. That would be her best defense. So you've got to look at that and understand that. Which claim will succeed?

If a question is specific, example which is the best defense, which claim will succeed, you need to re‑write the call of the question.

If you see an MBE question with 'because' or 'since', these are conclusions.

Therefore, everything after the 'since' or 'because'

Therefore, everything after the 'since' or the 'because' will be true. Let’s take a look at Example #1 and see how this works.

Let’s look at an MBE question and process it together:

Example #1

In the State of X an assault is defined as an attempt to commit a battery. 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.

I've highlighted in regards to what the actual assault is right?

I want to understand what my definition is supposed to be.

As Pete was walking down Main Street, he dropped his cell phone. okay. As he went to grab the phone while in the process of dropping to the ground, he hit Mary ‑‑ so remember, he is charged with assault ‑‑ 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:Now, they gave me the definition of an assault, didn't they? So I need to break it apart and determine what I need to proof. Well, for an attempt you need specific intent, substantial step, perpetration, right. So you break those all apart and determine if they're there. Well, based on specific intent, it looks like he was dropping it, went to grab it, he didn't have specific intent.

A. Guilty, because he caused apprehension in Mary.

B. Guilty, because he should have been aware of others around him.

I can get rid of Options A and B without even reading them.

C says: Not guilty, because he had no intent to touch Mary.

D says: Not guilty, because he did not intend to touch Mary.

Looking at all the answer choices, they all look bad. Hence, we apply the process of elimination. If you believe the answer is he is not guilty you can illuminate answers A and B since they have a modifier 'because', 'since', and 'as' are modifiers. If an answer choice uses 'because' or 'since', you can illuminate 2 answer choices right off the bat.

Thus, that leaves answer choices C and D.

However, let’s look at all the answer choices:If it's a modifier, everything after the if must be true. Use unless as a modifier, this is a little more difficult. You need to rewrite the answer choice. So says yes, unless ‑‑ you're going to cross that out and put yes, if. If you said yes if, you cross it out and say no if. If it says no unless, you cross it out and put yes unless. The unless questions are very difficult for students. It's hard to compute in your mind, because it's like, what are they really asking me? So re‑write that, and that helps you to understand what they're testing or asking you to do. Everything with me?

Now let’s look at other modifiers ‑ “if” and “unless” when you see a question that is using 'if' as a modifier, everything after the 'if' must be true. As for the answer choice, using unless' as a modifier the best way to attack this kind of answer choice is to re‑write the answer choice: To No or yes if.

Let’s take a look at another MBe question.

Example # 2

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. 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.

Okay, now, if Sam asserts a claim based on misrepresentation ‑‑ now you need negligent representation of a material face ‑‑ against Tammy, will Sam prevail?

She's not obligated to make a representation.

A says Yes, because ‑‑ don't have to read it.

B says: Yes, if Tammy did not inform Sam of the true value of the inventory.

C. No unless, Tammy told Sam that the stock was not worth more than $6 a share.

D. No, if Chemco’s financial statement was available to Sam.So you can eliminate option A. B says yes, if Tammy did not inform Sam of the true value of the inventory. She isn't obligated to tell him the true value. So that doesn't support any Elements of misrepresentation, so that's not a good answer choice. C says no, unless. Now, we're going to rewrite the no unless remember to a yes if. So C reads: Yes, if Tammy told Sam that the stock was not worth more than $6 a share. If we rewrite it properly, right, she just made a misrepresentation, right? She didn't keep her mouth shut by her making a statement of it's not worth more than $6, that would be a misrepresentation.

So C looks good as an answer. D says no, if. Now, remember, everything amp the if must be true. No, if the financial statement was available to Sam. Again, how does that support the misrepresentation? So C is going to be the best answer choice. D goes to if Sam knew about it or should have known, then he's out of luck. But she made a representation, right. There's a difference between a representation versus an omission of what you should have to disclose.

So obviously when you're look, at this particular question, what is the best answer choice? C, because that supports he will prevail if Tammy made such a representation, which is false, because she knew the true value would be $30 based on the facts. So you see, it's important to look at your modifyers. Since, because, if and unless. It's very important I would say, because you want a good handle on it in breaking it apart. Number one, apply the rules to a melt multiple choice question. You need to determine the issue, but you need to determine the inner issue; ie, what element is being tested within itself. So if you read a fact pattern and you understand it's a battery, okay, well, that's great. But what within battery is being tested here?

And if you can figure that out then obviously you're going to get to the best answer choice. If you're looking at it what I call too broadly, that's going to hurt, you, because you'll get the second‑best answer choice, which I'm sure some of you have gotten there and you get frustrated. Out of the four, I can eliminate two, but I don't pick the best answers. So that's frustrating, too. So practice help, right? And again, break it apart.

When you miss a question, why? Don't just read the answers. Why if didn't I go back and look at it? A lot of times it isn't because you didn't know the law. Sometimes maybe, but a lot of times it's not. It could be misunderstood or you didn't break something apart or made an assumption, right. Attempted battery, wait, battery is a general intent crime. Intent, specific intent, oops, I see my mistake now. And that's a very common mistake, especially with the attempted rape. It's attempt, no. Not specific intent, right also the other thing I would recommend when you miss them, have you time, write a flash card or keep notes in a notebook or something, so you can go back on it and look at it quickly as to reflect on it. Again, the more I understand how the issue is tested and understand why I miss ed, it right, I'm going to start breeding success. If I keep making ‑‑ doing the same mistake, habit, I'm not going to improve. That's like someone playing golf and you keep having the wrong swing. You'll never improve unless you correct that swing. Same thing here. We need to correct that problem. That's very important.

When taking an MBE, make sure you apply the rules/elements of the concept that is being tested.

Example #3

Tillie Taylor was a member of the Children of the

Tillie Taylor was a member of the Children of the Earth. It's very specific isn't it? False imprisonment.

So when I read the fact pattern, I want to make sure that the facts are supported.

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 ‑‑ that's good ‑‑ 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.”

What element did that just put at issue?

She's afraid to leave, psychological confinement.

In an action for false imprisonment against Raj and Children of the Earth, Tillie will most likely

A. Recover, since Tillie’s confinement resulted from the implicit threat on the billboard.

B. Recover, since Tillie’s confinement was psychological and Raj knew that Tillie was a paranoid

Schizophrenic

C. Not recover, since the defendants did not intend for her to be confined in her home.

D. Not recover, since Tillie was under no constraint to remain in her house

C is the best answer. For false imprisonment you need a showing of intentional physical or psychological

Confinement of another. – This is an example of how you need to break apart the elements of false imprisonment.

There is psychological confinement present; however, there is no intent. Prime example of how you need to break apart the elements and make sure that facts support the elements.They wanted to scare her to get back to the commune. Oh, that changes everything, right? I did get rid of option A and B, because there is no intent. That's the Element that's lacking. But do you see how they try to get me to focus and get so excited on the Element of the psychological confinement? Trying to trick me. And they're good at writing these, so I have to pay attention to make sure I go through the rest of the facts and make sure the Elements are support ofed with those facts. So let's go ahead and read C.

C. Not recover, since the defendants did not intend for her to be confined in her home.

D. Not recover, since Tillie was under no constraint to remain in her houseWell, you don't have to be constrained, with the fact of fear. Because you already know she's what? She's a paranoid schizophrenic, right? So she feels she can't psychologically leave, that fulfills the obligation under the false imprisonment. So the intent, their intent was to get her to what? Return back to the comm une, not to maintain or stay in that home. So the correct anticipate choice would be what? C. ‑‑ answer choice. Does everybody see why C is the best answer and how we broke apart and made sure we could find false imprisonment? Again, they want us to jump on it, oh, I see, psychological confinement and jump on that and go finish she can recover. But this is a prime example of why you need to break the Elements apart because this is how they test. You want to make sure there's a tort or a crime; that the Elements are satisfied before you even look to a defense. So often I tell students you should have approaches. What do I mean? Well, for intentional torts it in this case, it would be false imprisonment. Is there any actual probable township cause of issue? The answer is no, or else they wouldn't write it. Damages, and defenses. So that's my setup and I go through and I take the multiple choice questions and see where I'm at and what they're really testing. Because again, if I don't follow my steps, I most likely will leave out a defense that could obviously find no liability. Or there could be causation, which, remember, causation exists in every tort. So I got to make sure I understand what I'm doing and break it apart, so I do well on the multiple choice questions. In this past Baby Bar I'm actually seeing students pass with a 67 raw score. And they did very well in the essays and they passed. Usually you need 90 or better on multiple choice questions. That's too close for comfort, to me. We want to strive for 80 to 85 percent. How you get there is basically practicing and using your tools. Breaking that apart, that's how you're going decide. Now you're kind of experienced and you understand how to attack a multiple choice question. So let's break a few apart. Remember, the key thing is to always start with the question. Read the fact pattern. Narrow down specifically as to what's being tested, right? You should have a good idea before you read the answer choices. If you don't, that's probably another problem. Why? Because you're going to read 'em all and then, gee, I'll pick this one. Well, wait a minute. Did you hone in on what was being tested based on the facts? So you have to have a good direction as to what direction you're going prior to even read your answer choices. Right? So I want you to break that apart. So let's look at first question, question number one. Now, again, you'll be taking these on the computer. I do want you marking like I have exhibited here in highlight, key things that make sense to help you narrow down specifically as to what is being tested. That's important. Again, we think differently on a computer than we do when it's an actual book.

Now, it

Now that you are experienced, let’s look at a few and see how you do.

Question 1 is based on the following facts:

On November 1, 2009 Mozart entered into a contract with Thomas to play the piano in his night club 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 night club with Mozart as the headliner. On December 29, 2009 Mozart called Thomas and told him he has been Mozart called Thomas and told him he has been offered more money to play at another club and would not be playing.

Oh, so he's supposed to be playing when? New Year's Eve.

May Thomas bring the lawsuit now?

A. No, because Thomas must wait until December 31, 2009, to see if Mozart performs.

B. No, since the contract was no executor.

C. Yes, because Mozart repudiated the contract

D. Yes, since Thomas will lose profit without a headliner.this is one multiple choice question you would definitely see tested on the Baby Bar. We like there issue, because students don't understand it. So breach, I call it breach because that tells me my checklist under the heading of brief, you need to show the contracts and that you repudiate it. exec utory stages means that neither of us has started performance or one of us has not fully performed. So looking at the actual fact pattern, right, obviously, um, Thomas hasn't paid Mozart anything. Mozart hasn't been paid. So since this contract is in executive stage, Thomas doesn't have to wait and see what happens.

May Thomas bring the lawsuit now?

And look at the answers ...

A. No, because Thomas must wait until December 31, 2009, to see if Mozart performs.

B. No, since the contract was no executor.

C. Yes, because Mozart repudiated the contract

D. Yes, since Thomas will lose profit without a headliner.

So I can eliminate options a and b.

C says yes, because Mozart repudiated the contract

Well, that looks true.

D says yes, since Thomas will lose profit without a headliner.

Answer C is correct. For anticipatory repudiation you need the contract to be executory, and you need express

Words of repudiation.

D really goes to damages.So do you see how I broke it apart as to the Elements and dissected them, looked to what's being tested? That's important. So the more I can break it apart, I'll hone in and I will get the best answer choice. Okay?

Let's look at Question 2.

Question 2 is based on the following facts:

Biff goes to Jackson’s house at 3:30 p.m. intending to break in and take Jackson’s TV. When he arrives, It's 3:30 p.m., so it's not a burglary, right?

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.

He walks in and takes the TV.

Well, looks like there's a larceny because he didn't take it by force.

The most serious crime that Biff could be

Convicted of is:

(A) Larceny.

(B) Robbery.

(C) Burglary.

(D) Embezzlement.

A is the correct answer.

You see here, it says: the most serious crime that Biff could be convicted of is:One wait, wait, charged, doesn't mean you're convicted. So the best charge would be burglary, versus the larceny. So I got to pay attention to the call of the question in regards to see what supports the correct answer. I could even change the call, what is the most serious crime? What defense could Bi ff make? Looks like he's guilty to me. So I look at the facts and see where I can negate the crime that's being charged. Does that make sense? So again, we can take the same facts and by changing the call, we change the whole answer choice. That's why the call is very important. That's why we need to make sure, did you answer the call of the question? Okay? So again, for question Number 2, obviously it was the best answer tA was the best answer. ‑‑ A was the best answer. Now, let's look at question number three.

Why larceny vs burglary

Question 3 is based on the following facts:

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. Charged with arson under most modern statutes, Mel will likely be:

Before you read the answers, what do you need for arson? Right?arson? Right? Malicious means not intentional.

(A) Convicted, because his actions were reckless, sufficient mens rea for arson.

(B) Acquitted, because he did not burn down a dwelling.

(C) Acquitted, because the garage was his own property.

(D) Acquitted, because he did not intend to start the fire or manifest extreme disregard for the danger.

Well, that is true; it's just a structure, right?property. That would work for common‑law.

(D) Acquitted, because he did not intend to start the fire or manifest extreme disregard for the danger.Arson is a very testable common issue, comes out quite a bit. This is tested in regards to hiring someone to burn down your home, so you can collect the insurance proceeds. You may be charged with attempted arson or arson. Can you be charged with attempt? No. Why? You have to look at the underlying crime.O wait. I have to zoo the capability of doing the underlying crime, or you can't charge me with the intent. That's another way of how they test. Very testable, right? Because now, again, we don't know that rule. Why is that? Again, we have to practice more and break it apart and get it underneath our belts in understanding how they test the concepts.

Remember the call of the question is testing Modern arson.

Question 4 is based on the following facts:

A man went into a high school and took an unattended backpack. Thinking about larceny, right?

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. Is the student who ran out from behind a parked car. Is the man guilty of murder?

What did they just put at issue?

Anybody? How about felony murder rule? Oh, right?I start out with m alice.

(A) No, because the man did not intend to hit the student.

(B) No, because larceny of a backpack is not an inherently dangerous felony.

(C) Yes, because the man killed the student while leaving a crime scene.

(D) Yes, because the man could not have hit a student without being grossly reckless.Can I jump into, well, would it be involuntary manslaughter? Again, is he driving slow. The facter accidental, aren't they? For involuntary manslaughter, it needs to be grossly recklessness, right? Which I don't have here.. I can eliminate two answer choices because l arson won't work for the felony murder role.

So I can get rid of option C and D. Option A says no, because the man did not intend to hit the student. Well, that's not a good answer. Why? Because if I was in the commission of a dangerous felony, I don't have to have the intent to hit the student. I'm in the commission of a felony, having reached the place of safety.

(B) No, because larceny of a backpack is not an inherently dangerous felony.

B is the correct answer.This is a very common multiple choice question essay question. For felony murder rule, as well as the red line felony murder rule, they're two areas they have been hitting quite a bit on the Baby Bar.

So you need to know them rain understand how they come into play. You need to make sure you understand where you'd write them on an essay, right? Is something that is highly testable. I can't predict right now, because Baby Bar essays won't be out until the third of September. So I have no idea as to what's been tested unfortunately, which I don't like. I like to have some idea to give you areas to focus on. But murder is very testable. It comes up 90 percent of the time on the Baby Bar.

So this is something that you should be prepared for. The key things that they do like besides conspiracy and murder is your felony murder role. So it is an area that you want to understand how the content September is tested. ‑‑ concept. It's highly testable. If you go in knowing that, it obviously breeds success, because I know how to set it up and that's important.

>>> Your correct answer choice for question number four, again.

Question 5 is based on the following facts:

Liz and her boyfriend, Lucus, were having dinner at the Golden Dragon Chinese restaurant in Chinatown the Golden Dragon Chinese restaurant in Chinatown when she excused herself to go to the bathroom.

So we are thinking tort based on the fact pattern.

Liz and her boyfriend, Lucus, were having dinner at the Golden Dragon Chinese restaurant in Chinatown, when she excused herself to go to the bathroom.

Now, at this time, we should be thinking, well, she's at the dragon Chinese restaurant as an invitee, right.

Probably looking at the theory of negligence, right?

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. When she fell, her head struck a 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. If Liz asserts a claim against Wong for the injuries she suffered from the fall, she will most likely:

Now, let's break this apart.

First thing is what's the theory? We're looking at negligence.

(A) Recover, because the egg roll on the floor constituted an unsafe condition of the premisesEven though Elliott knew it was on the floor, he has no obligation to tell her. Wong has the obligation to tell her. So even if Wong didn't know, he could be liable if it was on the floor for a substantial period of time. If it was just dropped, sorry, you're out of luck, right. So again, will she be able to recover? I'm looking at my answer choices and saying she should be able to, so I like A and B.

(A) says recover, because the egg roll on the floor constituted an unsafe condition of the premises

True, but if Wong didn't know about it, he didn't breach a duty right?

(B) Recover, if the egg roll was on the floor for a substantial period of time before the accident

He has a duty to inspect dangers.

(C) says not recover, unless ‑‑ now, remember we're going to change that to recover, if ‑‑ Wong knew that the egg roll was on the floor

He has a duty to inspect discover the time period to warn me about it.

(D) says, not recover, if Elliot was responsible for knocking the egg roll off his table

B is the correct answer.

Do you see how we broke it apart?Do this in practice so you build strong skills. And then it will become faster. And really understand how the concept is tested; you start reading the facts you already know it's been tested because you have done so many, you understand how the concept is tested in the fact pattern. Soon, it's ‑‑ I know what the answer is. And that's a good feeling of getting there, by the way. I remember that, finally the light bulb came on.

You guys are awful quiet tonight.

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 no later than October 10th.

So he mailed the offer; I have that.

Is it an option? I don't know.

Madison posted his acceptance on the 3rd of October. The acceptance arrived on October 7.

So at this point, do we have a contract?Acceptance is dispatch, not arrival, right?

We already had a contract.

On October 4, Arthur sold the tract in question to Larson and mailed to Madison Notice of the sale.

Now, again, when is a revoindication effective? Upon receipt, not dispatch. So the fourth, when Arthur sold the tract he breached the contract with Madison, didn't he?

It says, that letter arrived on the 6th of October, but after Madison had dispatched his letter of Acceptance.So do we have a contract or not? On the third, we did have a contract. A says there was a valid acceptance of the offer. Well, that seems to match the third, so I like to put a plus there.

(A) says, there was a valid acceptance of the Arthur offer on the day Madison posted his acceptance.

(B) Arthur's offer was effectively revoked by the sale of the tract of land to Larson on the 4th of October. So B is incorrect.

(C) Arthur could not revoke the offer to sell the land until after October 10.

Is that true? No, it's not in this case.

(D) says: Madison's acceptance was not valid since he was deemed to have notice of revocation prior to the acceptance.

How did he have notice?

That doesn't make sense, right? So D is out.

So A is the correct answer. Based on the mail box rule the acceptance is effective upon dispatch.Same fact, October 1st, Arthur mailed an offer to sell the tract of land for $13,000. Acceptance was to be no later than October 10th, in which Madison paid consideration to keep the offer open. Oh. What did that just do? That created an option, didn't it? Okay? Now ‑‑

Madison posted his acceptance on the 3rd of October. The acceptance arrived on October 7.

So at this point, do we have a contract?

We already had a contract.

On October 4, Arthur sold the tract in question to Larson and mailed to Madison Notice of the sale.

Is there a valid contract? Did anything change based upon me creating an option? The answer is yes.

It says, that letter arrived on the 6th of October, but after Madison had dispatched his letter of Acceptance.it would not be effective until October 7th. But the revocation took place on the sixth. So it was prior to the time of acceptance, so the revocation would be veil I had. Does everybody see that? So this is very testable stuff, and that's why you need to know your rules and understand how they work and they don't, because that's how they're going to test. So by just adding three little words, see how it changed everything on you? Now, we did a few multiple choice questions and got an understanding of eliminating wrong answer choices, that's something you do need to work on. I want you to focus on the stem,ier the call in the question and read it first. Then go through the fact pattern. If they're testing a tort or a crime, I want to you break apart the Elements and see if the facts support the Elements. It's important. If it's a contract issue, you should check, was a contract informed?

Break that apart. Right? Try to eliminate two choices right off the bat. We can't always but many times we k and then break apart the two remaining and understand why one is better than the over.

Remember, if you can negate an Element of a tort or a crime, that's always a better answer than a true defense, right?

Right? You just support showing the crime or the tort. So I'm off the hook. Those are better answers. When you miss multiple choice questions, why? Look to the answer you chose and determine why did I pick this? Versus the correct answer. So the prime example I gave you earlier is the attempted arson, burning down my own house. Can't do it in common law. So if you can't charge me with attempt, I didn't do the underlying crime. Oh, I didn't know that. I didn't break that apart properly, right?

Merely reading the answer choices is not enough, because again, you probably knew that. But there was something that you missed or maybe something that needs to be tweaked that you need to look at. If time allows write it out on a flash card as to what you missed. Tie it back into the checklist. So you can have multiple copies of a checklist. And I tie in a word or two of a word or two that I missed. So when I'm reviewing my checklist and studying, I can click my memory and go, oh, yeah. I still remember one, 15 plus years ago, that baseball diamond where a guy had a naked lot next to his home, created a baseball diamond and had glass on the mound and a little boy was cut on that. I'm thinking that sounds like negligence to me, strict liability. What? It was a non‑natural use of the land, right?

Oh, and it had the glass. Another one was in regards to murder. You drive at 100 miles an hour in a school zone. I feel you're guilty of second degree murder. But it was midnight, there shouldn't be a child out there. Or that's factual. So that's involuntary manslaughter.

So we learn by our mistakes by going back and figuring out Y that's very important, okay? At this point, you kind of have an introduction of attack, multiple choice questions. I would highly recommend that you do them on the computer; if you need some, shoot me an e‑mail. I think there's 333 of them that you can practice. Because you got to get used to reading it on the screen and breaking it apart on the screen, since that's what most of you will be doing. Next week, we're going to start going over the subject matter.

So the first subject matter is tort, so I want to you start reviewing it. I'm not going to spend time in basically teaching the black letter model, I tell you how the concepts are tested. For instance, false imprisonment, what do they test? Were you aware by the confinement or damaged by it? If not, sorry, right? So little things like that, I'll point out to you and go through the actual subject matter to give you an idea of how it's tested or how concepts come together or cross over with each other, so you're prepared. Then after torts we'll do tort essay and repeat the same for each and every subject matter. Now, once you review a subject, such as tort, this is where the building process comes into play. You start implementing practicing multiple choice questions as well as essays. If you have time, what's today, Tuesday? Say Wednesday you study intentional torts then you start doing multi‑states intentional torts. Then add intentional torts and negligence. You have to start implementing this. Have you enough law. You studied enough. We we have to start application. So I want you to start putting that on your list and breaking that apart, okay? Does anybody have any questions for me? As you know, the Baby Bar is a tough test. It's not easy. But we can beat the test. We can succeed and pass and that's based on our preparation. So we have to put in the time and obviously we have the tools, right. Let's put in the time and let's make this happen. You've got to practice writing, you've got to practice doing multiple choice if you're not getting them correct, look to why. So if I'm getting 60, something's wrong. I'm going to do the same thing. I need to figure out problem, what is going on? What am I missing? What issues am I not seeing and understanding?

We have to do what I call a diagnostic and look to where my weaknesses are so I can work on those. Okay? All right. If you have any questions throughout the week, please e‑mail me; I'd be more than happy to help you in any way I can. If you do need multi state, e‑mail me, I'd be more than happy to send those out to you tomorrow.

So again, you can start practicing them. They are broken apart by subject as well as I believe there's a simulated. All right. I hope this was helpful to you and I guess I'll see you guys next week. Good night.