Concord University School of Law
Practice Essay

SOS -- Start on Skills

Instructions:

These are the Instructions to take this SOS essay under "test-conditions." You may, however, take the essay any way that works for the group. You may set a 2 hour time-limit; you may set no time limit at all. You may even write the essay together, step-by-step, stopping to review whether IRAC has been properly followed.

This is a timed practice, and you should take no more than one hour to complete this exercise. Set a timer and allow no interruptions. Before you write, be sure you have memorized all of your definitions and rule statements so that you can recite them in the appropriate place. Remember that you cannot demonstrate your best analysis unless you use the IRAC formula. If necessary, review IRAC before you begin to write.

This is closed book and designed to test your ability to recognize legally significant facts, to reproduce on paper the proper rule statements and definitions, and to apply the relevant facts to the elements of the rule in order accurately to predict the legal outcome. You will need these skills to do your best on your final exams as well as on the FYLSE, if you are required to take it.

The best practice is to write an outline or an "issues list" before you begin to write. Under no circumstances should you spend more than 5 or 6 minutes on this overview. Yet, under no circumstances should you ignore it. If you make an issues checklist before you begin, you can go back and check off the issues at the end. On the other hand, if you do not have a checklist, it is too easy to lose your way as your write and totally forget to include an issue you, in fact, actually identified. To lose points through inadvertent omission is a frustrating – and unnecessary – outcome.

Getting Started: Set a timer and write your outline or issues list. Then, write the essay itself. When the timer rings, stop, draw a line across the page – and keep going until completion. Note your Total Time clearly in parentheses for your reviewer. This will become an important diagnostic tool to help you improve your skills.

Finally:

1. Make and keep clean copies of this essay so you can practice rewriting it, especially if you find you cannot complete it in the required hour allotted. Candidly, you cannot practice writing too many essays. First, you will learn to think more rapidly, a real advantage on finals as well as on the FYLSE, if you are required to take it. Second, you will begin to recognize common and recurring fact patterns, another incalculable advantage, especially under time pressure. Certainly, if your time is running well over an hour, you should practice writing the same essay several times as your exams approach – until you can complete it in time.

2. When you receive your assessment back, pay attention to your weakest areas.
Do you need to work on memorizing the Rule Statements? Organizing? Applying the Facts? Stating a conclusion without being inconsistent or unsure? Does the structure of the essay wobble from Rule to Conclusion and back to the Issue? Are the facts analyzed before the Rule Statement if provided? Have you omitted the Rule Statement altogether?

Above all, remember that the tasks are familiar ones to all students everywhere. Hard work pays off. Cramming does not work. There are no shortcuts to memorization.

Good luck.
Buyco, a conglomerate, wished to purchase a Model X generator of unique design, recently introduced to the market. Demand for the generator was high. Buyco was able to locate a seller who would guarantee delivery within six months.

Buyco received a letter from Sellco stating: "Sellco can obtain a new Model X generator and hereby offers to sell the generator to Buyco for one million dollars. Sellco promises delivery within three months from acceptance. This offer will be held open for one month."

Sellco has dealt regularly with one of the subsidiaries of Buyco, but Sellco does not in the normal course of business sell generators. Knowing of Buyco’s urgent need for the generator, Sellco believed that it could increase its goodwill by selling it to Buyco.

Buyco responded immediately in writing to Sellco’s letter, stating: "We are delighted that you can furnish the Model X generator in time to fill our needs. We will begin immediately to construct facilities to house the generator, but in the meantime we will continue to shop around. We wish to hold your offer under advisement for a couple of weeks to see if we can get a better price." Sellco wrote back saying: "We acknowledge your letter."

It soon became apparent to Buyco that the price of Model X generators had increased dramatically, and that none could be purchased for less than $1,200,000, regardless of delivery date. In the meantime, Buyco expended $100,000 on facilities to house the generator. Ten days after receipt of the initial letter from Sellco, Buyco decided to accept Sellco’s offer. On that same day Buyco received a letter from Sellco stating: "Because of the dramatic increase in the market price of the generator, we hereby revoke our offer."

Buyco learned that Sellco had obtained the generator and was about to sell the generator to Thirdco for $1,300,000, and that Thirdco, aware of the existence of Sellco’s offer to Buyco, had persuaded Sellco to revoke it.

What are Buyco’s rights, if any, against Sellco? Discuss.