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 you 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 short cuts to memorization.

Good luck.
Abel and Baker were working on a scaffold lawfully erected over a public sidewalk. Abel, contrary to an express rule of his employer, was not wearing a hard hat.

While trying to park her automobile near one of the supports of the scaffold, Diana maneuvered it into such a position that she knew there was a risk of knocking the scaffold down if she backed without someone to guide her. She appealed for help to Sam, a stranger who was passing by. Sam just laughed. Angered, Diana proceeded to back her automobile without assistance and knocked a support out from under the scaffold, causing Abel and Baker to fall.

Abel severely fractured his skull and was taken unconscious to a hospital. If he had been wearing his hard hat, he would have suffered only a slight concussion with minimal disability.

Baker sustained a fracture of a vertebra, but he was able to walk and felt only slight pain. The fracture could have been easily diagnosed by x-ray, and a medical doctor of average competence could have successfully treated it by immobilization. Instead of visiting a physician, Baker worked the rest of the day. While driving his car home later that day, Baker stopped at an intersection and his car was struck from the rear by a car driven by Ed. The collision caused only slight damage to Baker’s car, but it was sufficiently severe to aggravate the fracture in Baker’s back, resulting in paralysis.

Assume that Diana, Sam and Ed raise all appropriate defenses.

1. What rights, if any, does Abel have against Diana? Sam? Discuss
2. What rights, if any, does Baker have against Ed? Discuss.