

ESSAY APPROACH
Bar Exam Doctor
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PERFORMANCE EXAM

- I. APPROACH
 - a. Read the general directions
 - b. Read the task memo
 - c. Outline the task memo
 - d. Tear out the task memo
 - e. Tear out and read instruction sheet if one is provided
 - f. Read and outline the library and file
 - g. Complete all of this in 85 minutes
 - h. Take 5-10 min break / review task memo / think organization
 - i. Write answer in 85 minutes

- II. PAPERS YOU SHOULD HAVE BEFORE YOU WHEN YOU WRITE YOUR ANSWER
 - a. Task memo, torn out
 - b. Document instruction sheet, if included, torn out
 - c. Outline of task memo
 - d. Outline of library (use torn out table of contents for organization)
 - e. Outline of file (use torn out table of contents for organization)

- III. FACT GATHERING
 - a. Theory or ultimate fact
 - b. Elements or factors
 - c. Facts
 - i. Documentary
 - ii. Physical
 - iii. Testimonial
 - d. Sources
 - e. Tools/means – if required
 - i. They'll define them for you
 - f. Organization → element by element, or factor by factor
 - i. Facts we need, facts we have
 - ii. Circle every person in the file, every document, all physical evidence
 - iii. Unless they tell you about admissibility, don't worry about it

- IV. FACT ANALYSIS
 - a. The law is given or agreed upon and is used to help focus and organize the document
 - b. The facts are analyzed or argued within the structure of the law
 - c. Example of fact analysis: closing argument to a jury
 - d. If closing to a judge, you might be able to bring in law, but pay attention to what the facts of the problem say. If the facts say that the judge is a fact-finder, then no law.

- V. PROBLEM SOLVING
 - a. Identify problem in terms of client's goals

- b. Identify options, alternatives, courses of action
- c. Identify and analyze consequences for each option (legal and non-legal consequences)
- d. If requested, select and implement best option
- e. Organization → option by option

VI. MISCELLANEOUS

- a. If a case in the library goes against you, you **MUST** distinguish it based on law, facts or policy
- b. Don't need to include a statement of facts in a memo unless they ask you for it. If they do, you must include the legally significant facts, even those damaging to your client.
- c. All declarations/affidavits begin with: "X, under penalty, declares that the following is true and correct."
 - i. That is then followed by a statement identifying the person who is speaking (I am aunt of P Elizabeth Powell; I am the sister of her late mother, Martha; I am the guardian of P Elizabeth).
 - ii. Next is the basis for knowledge: Although I did not live with Martha, I visited her frequently...
- d. **REMEMBER:** task memo controls over instruction sheet