

Professor Delaney's Suggestions for the Day of the Law Exam

1) Arrive somewhat early. Allow time for traffic or other delays. If warming up helps you, write out one argument while waiting to an issue from an old exam of your professor to lubricate your mind. If you expect the exam to begin with multiple-choice questions, do some relevant questions on topics prioritized by your professor.

2) To remain calm and on plan, do your best, while being respectful, to avoid substantive discussions with other students. Many will be very anxious. Unhappily, they did not prepare with hypotheticals and old exams and are at sea. Make an exception, preferably brief, for a friend or study buddy with a question. If your own final preparation uncovers a question that remains clouded, call a trusted study buddy before you reach the exam room. Try to visualize yourself performing well in your well-practiced issue spotting and writing of different types of exam arguments. Such visualization can encourage your actual performance and can ward off fears.

3) As soon as not prohibited, perhaps while exams are being distributed, write out in a minute or two from memory your one-page Exam Checklist of major topics and sub-topics that your professor has emphasized during the semester and that you have developed and written out over the semester.

4) As soon as you finish the Checklist, quickly scan the Exam Instructions to determine if there are any changes from such instructions on prior exams that you have already scrutinized. Unless there are changes, seconds should be sufficient. In addition, without reading any specific problem, see quickly how many problems there are and the time allotments for each 60 minutes, 50 minutes, etc. Quickly see if these time allotments add up to the three or four hours total for the exam. Often, professors give a 10, 15 or more minutes as a cushion that is good to know about as you begin.

5) Return to the first problem and focus on the question at the end of the problem, often a variation of 'What are the rights and liabilities of the parties?' If you are taking a tort exam and you have covered intentional torts and negligence

that translates to 'Which intentional torts and negligence have been committed and which defenses, if any, should be raised?' And so on. Always translate broad questions into specific course-based questions that concentrate only on what has been covered in class and materials. Be careful too to vigorously embrace any role you are assigned and argue from that perspective in a distinctive voice, e.g., 'As the plaintiff's lawyer...'; 'As the defense lawyer...'; 'As the judge....'

After all your practice with her old exams, you should be able in seconds to confirm your expectation as to the type of problem you first confront. In seconds and starting with the first problem, you note -say - that it's not a policy problem and not an unfolding issue problem like the 'Olivia' contract problem or the 'Let Them Eat Cake' problem in my Exam book (pp. 114, 116). Yes, like most of this teacher's problems, it's a more usual multi-issue problem, either a short or longer version. But if you identify a policy problem ('Draft a statute addressing...' or 'Do you agree or disagree with the proposal to...') be sure to switch your exam wavelength away from the issue spotting frequency in order to write out these different policy-type arguments (see, e.g. Exam, pp. 113). One size does not fit all in exam writing as in life.

6) If it's the typical issue-spotting exam, beginning with the first paragraph, specify the legal conflicts with their party couplings (A and B, C and D, etc.), and identify the party who inflicted the legal harm on whom. In order to get at least a rough idea of the total number of issues you must resolve and thus to estimate roughly how much time you have for each issue, I suggest you continue such specifying with each paragraph in the first problem. Be alert that the facts about a particular party may thread through several paragraphs. Without such an idea and estimate, there is a tendency to write expansively on early issues and run out of time for the latter issues. If you have instead identified an unfolding issue-spotting problem (see 114. 116), use your checklist to identify each sub-issue derived from the overall issue as sometimes advised.

7) Applying one of the issue-spotting methods (see Chapter Four), abbreviate the issue raised by each legal conflict in the first paragraph on scrap paper. Happily, odds are high after your months of practice that you will short-circuit the systematic steps early on with intuitive light-bulb issue spotting. Fine! With the issue as your nucleus for your argument, add whatever quick outlining you need after your several months of practice, perhaps the elements of the rule or a red-hot fact or two that spark the interweaving in the argument. If you know from her old exams and her classroom priority that she emphasizes back-and-forth argument, carefully check for counter-arguments for each issue you have spotted. On all exams, constant scanning of your one-page Exam Checklist should help you identify

the need for back-and-forth argument on all exams as well as defenses, 'negative' issues, and issues you have overlooked.

8) Applying one of the practiced CIRI(P) writing formats (Chapter Five), write out your argument from your outline. Please resist temptations to regurgitate all you know about the topic, but rather be sure to incorporate your professor's expectations and emphases that you have practiced for each professor. Don't forget these important differences from professor to professor.

9) Go to the second paragraph and repeat the last three steps. Continue with each paragraph until you complete the first problem. Watch the allotted time. Go on to the next problem and repeat steps six through ten.

10) In a final check for each problem, ask yourself: Have you accounted for all the legal conflicts with their parties and key facts in the problem (aside from stage-setting facts)? Remember that each legal conflict raises at least one issue and often more. Have you also scrutinized your Checklist a last time to ensure you have not overlooked any issue?

Feel free to give copies of this to your friends. It is not copyrighted. Some of these suggestions have implications for what you should be doing now a month or more before the exams.

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John Delaney is the author of:
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