

1 **MENTAL EXERCISES**
2 **FOR**
3 **PERFORMANCE TESTS**

4 (For general publication)

5 File: Mental analysis for public
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8 **I INTRODUCTION**
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10 Many bar applicants have difficulty doing well on the PT part of the bar exam. These mental
11 exercises help. I have used them with several groups of bar review students. Almost everyone
12 reported an improvement in timing, content or organization.
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14 **II SUMMARY**
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- 16 1. Choose any PT which was used by the bar examiners during the last 10 years
- 17
- 18 2. Read the PT while following the instructions below. Do not write anything; do not have
19 a pen nearby; do not make notes; do not underline; no writing whatsoever for the first
20 three PT's. This is important. Do not compromise on this
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22 **III FIRST-READ THE TASK MEMO**
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- 24 1. From the Task Memo, formulate (in your mind) a one sentence summary of what you
25 must do (perhaps one sentence per call)
26
- 27 2. From the Task Memo, make a crude mental outline of your response. This outline
28 will always be crude. The crudeness of the outline depends on the amount of
29 information given in the task memo. Always take the time to formulate this
30 crude outline. The thought process of creating this outline is more important
31 than the outline itself.
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33 **IV SECOND-READ THE LIBRARY**
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35 1. **STATUTES**
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37 If the library has statutes, they usually establish the overall theme of your analysis.
38 For example:
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- 40 a Construction contracts for residential buildings must contain the
41 following language “” unless “.....”
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- 43 b Marriages are presumed to be valid but a marriage can be annulled where
44 “.....”
- 45 c The theme in the statute helps establish the big picture.

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2. **CASES**

All cases in the library are written in IRAC. The “R” is the most important.

The Bar Examiners assign **many** points to whether or not you used the Rules and Policies given in the cases to support your position. For example:

a. **Case #1**

ISSUE – Typically, there will be a short judicial history of the case, a summary of the facts, and identification of one or more issues.

As to the facts, do not be overly concerned about understanding convoluted facts. Your focus is on the rule and the public policies behind the rule. This requires only limited knowledge of convoluted facts.

RULE - *Next locate the Rules and Policies supporting the rule. You must use these rules and policies. You must ultimately apply them to your facts. Mentally discuss with yourself how to use the rules and policies to support your position. Make certain that you include some policy discussion in your answer. About 3/4ths of your grade will be based on how well you applied these rules and policies to your facts.*

APPLICA- TION - It is unlikely that you will use their application in your answer. Read it lightly.

CONCLU- SION - If the conclusion supports your client, use it. If not, distinguish the case.

b. **Case #2 - Follow the same procedure as above**

V THIRD-READ THE FACT FILE (After reading the library)

1. As you read facts, you will often recognize their purpose. Make a mental note so you will remember.

REMEMBER, THIS IS A MENTAL EXERCISE. IT IS IMPORTANT THAT YOU DO THIS IN YOUR MIND ONLY. WRITE NOTHING

- 93 2. Now, you can fill in the crude mental outline you made earlier.
94 You can:
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96 -Chose your main argument(s)
97 -Organize it into subarguments
98 -Decide which rules you would use to support your arguments.
99 -Decide which public policies you would use.
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101 3. In your mind only, identify 2 or 3 legal issues which are both important to
102 the case, and are disputed
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104 4. Think through your analysis of these 2 or 3 issues. How will you use the facts
105 and the law that you now know, to prevail.
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107 5. Steps “3” and “4” alone, plus a good organization, will entitle you to 65%. Of
108 course you want to do even better.
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110 VI FOURTH-READ THE PUBLISHED ANSWERS

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112 1. Read **both** of the Bar published answers, even though they very long. These
113 received a grade 85% or more.
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115 2. Published answers are long – typically 2500-3500 words. You probably cannot write
116 this much. Do not write less than 1800 words. Try to write more. Detailed use of facts
117 is an excellent way to increase your word count.
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119 3. When reading the published answers:
120 Locate the *rules which the author used*.
121 Locate the *policy* discussions.
122 Locate the *application* of rules to your *facts*.
123
124 4. Learn from the published answers. Don't just read them.
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126 VII FIFTH-REPEAT THIS PROCESS FOR A TOTAL OF 3 PT'S 127 (From (All from the last 10 years)) 128

129 It is important that you do all of this in your head only.
130 **Write Nothing.**
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132 VIII SIXTH-READ AND OUTLINE THREE PT'S (Not the same PT's as above) 133

- 134 a. Do not write full text answers; just a detailed outline
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136 b. Read each of the two Bar published answers
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138 c. Look for **rules, policy, application** to facts
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140 d. Learn from the published answers. Don't just read them.

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142 **IX FINALLY-READ AND WRITE 3 PT'S**

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144 a. Read and write 3 PT'S

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146 b. Allow 3 ½ hours each for the first two PT'S

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148 c. Allow 3 hours for the third PT

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150 d. Read each of the two published answers

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152 e. **Most people are amazed at high quality of their answers**

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154 f. Write additional PT's within the 3 hour limit if you wish to do so .Doing so may
155 further increase your PT grade on the actual exam.

156 **X TIME**

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158 The total time required for the above preparation is about 35 hours. This is 5-10% of your bar
159 preparation time. The PT's are 26% of your total grade. It is a very good investment.

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161 1. Read 3 PT's, mental analysis, read published answers = 12 hrs

162 2. Read 3 PT's, outline answer, read published answers = 9 hrs

163 3. Read 3 PT's, write full text answers, read published answers = 13 hrs

164 TOTAL 34 hrs