Law School Exams
Preparation,
Conditioning & Performance
Workshop Objectives

1. Increase your understanding of the components of a successful exam answer

2. Increase your awareness of different strategies for effective preparation and practice
What is involved in performing well on law school exams?

- Employing effective memorization strategies
- Spotting all issues
- Presenting the legal rule
- Applying the law to the facts
- Offering a legal conclusion
- Supporting your position with appropriate authority
Memorization Strategies

- Repetition
- Flashcards
- Mnemonics
- Schema Webs
Components of a Strong Exam Answer

Issue
Rule
Analysis
Conclusion
Authority
Components of a Strong Exam Answer

The question here is whether the school and Shivley had an agreement to the effect that the school must provide just cause for non-renewal of her employment contract. It is likely that the school and Shivley did indeed have a contract with the just-cause requirement, according to the common law principles of offer and acceptance.

Under common law, courts follow the mirror image rule. An offeror is the master of the contract, and controls the terms of the contract in the offer. An “acceptance” by the offeree that proposes additional terms is considered a rejection and a counter offer (Restatement 38 and Brown v. Hercules Machine). In addition, if no method of acceptance is specified, an acceptance can be through an agreement or the start of performance. This gives rise to what is known as the last shot rule, in which the final rejection/counteroffer sent between the two negotiating parties becomes the controlling contract when the parties begin performance, because the performance is seen as acceptance of the final rejection/counteroffer.
In the fact pattern at hand, the school sent Shivley an initial offer in the form of the offer letter, which stated the terms of the offer, including the “no cause for firing” clause. Shivley responded by premising her acceptance on modification of the “no cause” term to a “just cause” term. Under the mirror image rule, this modification rendered Shivley’s acceptance into a rejection and counter offer because it was not the mirror image of the schools offer. The school was silent on the changes, and although silence is not an acceptance, the school accepted Shivley’s counter offer through performance when it employed her.

The school may argue that Shivley’s treatment of their offer was what is characterized as a grumbling acceptance, in which the terms are objected to, but still accepted. If Shivley had said that she accepts, but feels that she should have just cause for non-renewal than that would have been an acceptance of the schools terms and a contract according to those terms. However, Shivley explicitly conditioned her acceptance on modification of the “no cause” term, which probably operated as an effective rejection and counteroffer.

According to the last shot rule, Shivley’s version of the contract with the “Just cause” rule should be controlling, and the school has breached the contract by non-renewal without providing cause.
Components of a Strong Exam Answer

Issue Statement:
1. The question here is whether the school and Shivley had an agreement to the effect that the school must provide just cause for non-renewal of her employment contract.
2. The school may argue that Shivley’s treatment of their offer was what is characterized as a grumbling acceptance.

Statement of Rule:
1. Under common law, courts follow the mirror image rule. An offeror is the master of the contract, and controls the terms of the contract in the offer. An “acceptance” by the offeree that proposes additional terms is considered a rejection and a counter offer. In addition, if no method of acceptance is specified, an acceptance can be through an agreement or the start of performance. This gives rise to what is known as the last shot rule, in which the final rejection/counteroffer sent between the two negotiating parties becomes the controlling contract when the parties begin performance, because the performance is seen as acceptance of the final rejection/counteroffer.
2. A grumbling acceptance is one in which the terms are objected to, but still accepted.
Components of a Strong Exam Answer

Application of law to relevant facts:
1. Under the mirror image rule, this modification rendered Shivley’s acceptance into a rejection and counter offer because it was not the mirror image of the schools offer.
2. The school was silent on the changes, and although silence is not an acceptance, the school accepted Shivley’s counter offer through performance when it employed her.
3. If Shivley had said that she accepts, but feels that she should have just cause for non-renewal than that would have been an acceptance of the schools terms and a contract according to those terms. However, Shivley explicitly conditioned her acceptance on modification of the “no cause” term, which probably operated as an effective rejection and counteroffer.

Conclusion:
1. It is likely that the school and Shivley did indeed have a contract with the just-cause requirement, according to the common law principles of offer and acceptance.
2. According to the last shot rule, Shivley’s version of the contract with the “Just cause” rule should be controlling, and the school has breached the contract by non-renewal without providing cause.

Authority: (Restatement 38 and Brown v. Hercules Machine).
Strategies for Effective Studying

- Practicing with Old Exams
  - Issue Spotting
  - Time management & mechanics
  - Tactics

- Outlining/Organizing

- Working in Groups
  - Teaching back
  - Honing response language

- Making and Drilling with Flashcards

- Using Additional Resources
Studying with Old Exams

- You can reverse engineer an outline of an issue
- You can practice rapidly outlining issues from tests
- You can calibrate your timing & technique by taking exams under timed conditions
- You can rehearse & critique oral answers to exam questions with a study group
- You can practice your exam markup system
- You can rehearse concision and precision
Studying with Cases/Outlines

- Build Schema
- Look at cases as potential fact patterns
- Cases contain a statement of a legal rule.
- Cases exemplify the application of a legal rule to a particular set of facts.
- Cases provide an historical, social, economic and political context for understanding the law.
- Knowing cases (with or without names) and the legal propositions they stand for is one way to buttress the authority of your exam answers.
Studying with Other People

- Find people with a compatible approach to studying.
  - If the time spent taking breaks outweighs the time spent studying, it is probably not a good study group.
  - Try using an agenda and schedule to maximize effectiveness.
  - Your best friends may not be your best study partners.

- Be willing to display your strengths & your weaknesses.
  - Ask for clarification when you don’t understand.
  - Teaching is a very effective way to learn.

- Use your voice.
  - Parallel reading is fine, but it is **not** a study group.
  - If you can say it, you can probably write it.
Studying with Flashcards

- There are strengths and weaknesses to using flashcards:
  - Flashcards help with memorizing isolated facts.
  - Flashcards allow you to study in short intervals.
- Decide exactly what your flashcards are reinforcing: What two ideas are you trying to connect?
- Find a balance between too much and too little information on each card.
- Must create your flashcards early enough for them to be useful.
Studying in Other Ways

- Preparing open-book exam materials
- Creating an issue checklist
- Audio/video lectures
- Treatises/Hornbooks
- CALI and other online resources
- Other Commercial Material
Creating Your Study Plan

- What unavoidable obligations (going to class, sleeping, feeding your family, etc.) must go on your schedule before you schedule your studying?

- **How much time do you have left before finals?**

- What will you do (exercise, see a movie, maintain marital harmony) to promote health and balance?

- **What are the most time effective ways for you to study?**

- What aspects of your study plan need advance planning? (Making flashcards, forming a study group)
Tailoring Your Study Plan for Different Courses

Essay v. Short Answer v. Multiple Choice
Open Book v. Closed Book
In Class v. Take Home

Writing/Structure Style
Policy Considerations
Litigation Strategy
Use of authority
Before the Test

- Stay healthy!!!
- Sleep & eat
- Prepare low stress test day
- Do Examsoft practice test
- Rehearse test taking and timing
- Avoid drama!!!!!!
During the Test

- Don’t panic
- **Read the specific questions first**
- Read, mark up & digest the fact pattern completely
- **Organize & prioritize your answer before writing**
- Respond to actual exam, not what you expected or studied for the most
- **Think of all sides of the argument**
- Manage your time carefully!!!!
After the Test

- *Celebrate* (when you are done with all your exams)
- Relax
- *Spend time with family/friends/yourself*
- Closely review your grade and comments
- *Meet with your professor if you have ANY questions*
- Critique your own approach and plan for improvement
Thank You

Good luck on all your exams! Please complete the evaluation forms in the back of your workshop materials.

*Remember,* the skills you use on law school exams are related to the skills you need on the bar exam and the skills you will use in practice.

**To schedule a meeting:**

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