



# How to Answer Fact Based Law Exam Questions

## Types of Examination Questions

There are several types of law exam questions: short answer, essay questions, fact based questions, etc. Short answer questions typically require a few sentences by way of responses and assess recall of information. Essay questions test a candidate's familiarity with and an ability to discuss critically various issues of legal policy. Fact based questions test a candidate's ability to identify legal issues in a statement of facts, to present a reasoned analysis of the issues and to arrive at a well-supported solution. The following is a brief guide on how to answer fact based law exam questions.

## Examination Purpose

Successfully writing law exams requires not only mastery of the material, but the ability to demonstrate competence in legal analysis by writing answers that identify the relevant issues, state the applicable rules of law, and apply those rules to the facts in order to present cogent analyses of the various issues raised by the particular question. Law examinations, therefore, are not primarily designed to test information retention, memory or experience. Rather, law examinations require candidates to demonstrate:

Ability to analyze a set of facts, separating immaterial from material facts and spotting issues on which the case turns;

- Ability to identify legal issues presented by the facts;
- Knowledge of relevant doctrines of law, their scope and limitations;
- Ability to apply the law to facts, utilizing established modes of legal reasoning to arrive at a conclusion;
- Knowledge of the theoretical and policy underpinnings of various rules and doctrines of law; and
- Ability to critically evaluate the theoretical and policy bases of the law.

In addition to knowledge of the material, crucial skills for success in writing law examinations are:

- study skills;
- writing skills;
- time management skills; and
- reasoning skills.

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### **Study Skills**

The best way to study for a law exam is to synthesize all the material learned. Go over the notes you made while reading, review the chapters in the text, and any additional materials you read on each topic. Take all those materials and put them into an outline or summary, in whatever format works best, then use it as the basis for studying. Modify and annotate that outline or summary when studying for the exam.

As suggested above, identifying and analyzing the issues is critical to a successful answer. Practice these skills by completing any review problems in your readings, using the NCA sample exam and by writing practice answers. It is not just a matter of knowing the material, but knowing how to identify the issues and write answers that frame the applicable rules, as well as set forth an analysis that applies the facts in the questions to the issues and the rules. The best way to develop these skills is to write as many answers to sample exam questions as possible.

### **Writing Skills**

Law examinations have a lot in common with other forms of legal writing such as law office memoranda, briefs and judicial opinions. It is, therefore, important to develop and maintain good writing skills. Note that the examiner is looking not only for substantive knowledge of the topic, but how you answer the question as well. The ability to write well, fluently, and under time constraints is essential in order to pass a law exam. At minimum that requires that you write legibly, clearly and ensure your sentences are grammatically correct. In the event that you run into time problems, you can write your responses in the form of notes that capture the breadth and core substance of your answer.

### **Time Management Skills**

Law exams are given under strict time limits to test how well a student has mastered the course material and the student's ability to apply this knowledge to new situations in a time-constrained environment – the usual environment in which legal professionals operate.

- Have a plan for how to write your exam answer and execute that plan. Be ruthless in managing the time spent on each question. That means that when the time allotted for a question runs out, stop working on that question. Leave some blank lines in your answer pad in case you have time to return to the question at the end of the exam, but move on to the next question. The biggest mistake often made is spending too much time on one question (or one aspect of a single question), which leaves insufficient (or no) time to work on subsequent questions.
- For fact-based questions, read the question before reading the facts: Pay attention to the role the examiner has assigned you. If you are asked to be an advocate, you will approach answering the question differently than if you are asked to render a judgment or provide legal advice.
- Ensure you dedicate sufficient time to each fact-based question for analysis/application of the law to the facts. Your identification of the applicable law and ultimate conclusions carry points, but it is the analysis in between which will determine the bulk of your performance on the exam.
- Lastly, as mentioned above, should you run into time problems, write your answers legibly in the form of notes covering all of the relevant points.



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### **Reasoning Skills**

A successful law exam answer comes to a conclusion; the correctness of the conclusion matters, but it does not matter as much as the analysis that shows the examiner an understanding of the issues and how to analyze them.

#### **I. Read the question and the facts**

Read the question until you understand it. Consistent feedback NCA receives from examiners indicates that candidates do not answer the specific question(s) asked in exams. Instead, examiners report, that the candidates identify the area of law involved and then provide an overview of that area without focusing on answering the question. As the question controls and restricts the scope of your answer, it is important to answer it, not just list case law and doctrine. When the scope of the question is broad [for example: Describe the legal issues arising from these facts or please state whether a court is likely to find liability] then your answer can cover a number of issues. On the other hand, if the question is narrow [for example: what kinds of damages are available for breach of contract in this problem] your answer must address only the precise issue(s) asked. Examiners do not give points for discussing issues that the question did not ask you to address.

#### **II. Determine and Organize the Relevant Law**

Read the facts through to see which legal issues are raised. The goal is to find fact(s) that help resolve each of the elements of the legal tests necessary for successful answer. Examiners may have seeded the fact statement with specific facts that apply to specific elements of the relevant legal tests. You may get points for every one that you find and apply to legal tests germane to the answer.

#### **III. Write the Answer**

Write the answer following an “IRAC” roadmap:

- I – Issues – identification and separation of the legal issues
- R – Rules – description of the governing legal rules
- A – Application – application of the rules to the facts
- C – Conclusion – the answer, and caveat if required

For example, consider the trespass tort of false imprisonment (FI). If Bo Bird (BB), a first year law student at Bridge Hammersmith University attempts to leave the library without signing out a book and Jo Jones (JJ), after several attempts at talking to BB, engages internal and external door locks, trapping BB inside a small entry chamber for a few minutes, would BB’s suit against JJ for FI be successful?

In such a case you would have to outline the legal issues and elements the facts raise and, as each element has its own rules, you would analyze each one following the IRAC format. Use IRAC only for the lowest analytically independent elements and/or legal tests in the discussion.



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Whenever a larger issue breaks down into sub-issues or elements use a “roadmap” sentence that explains how you intend to address the various issues. Thus, the first (roadmap) sentence of your answer to the foregoing question might be: “To resolve this question, two issues must be addressed: (1) whether a false imprisonment has occurred and (2) whether any defences apply to excuse any such false imprisonment.”

Readers like this type of roadmap sentence because it clarifies the approach you will take to resolving the overall question. If you, instead, simply began by analyzing the tort of false imprisonment, the reader would not know that you subsequently intend to address the issue of applicable defences. It may also be useful to add a second roadmap sentence to indicate how you intend to break down analysis of the first issue identified in your first roadmap sentence.

For example, in this case, a second roadmap sentence might indicate how you intend to structure your discussion of the false imprisonment issue, as follows: “To determine whether JJ is liable for false imprisonment we must examine (1) whether BB was totally confined (2) as a direct result of JJ’s actions.”

If time is very short you may skip the roadmap sentences, but otherwise they are useful for making your discussion look professional and organized to the reader, and also for helping organize your own approach to writing your answer.

When proceeding with your analysis following the IRAC format, your discussion must be written out fully: In other words, you must assume that the reader knows nothing about the law or facts. An examiner cannot give you credit for parts of a legal analysis that you do not set out explicitly in your written answers, and it is not appropriate for you to omit steps in the analysis on the basis that the examiner must know the law and facts and therefore does not need to have them explained to them.

So, lay out your discussion completely so the reader can follow every step of your analysis and every application of the law to the facts in reaching your conclusions.

**The I, or issues** in the IRAC is very simple; for example, it could state: “The first issue in false imprisonment is whether BB was totally confined.”

**The R or rules**, is where you show the reader that you know the rules that govern the discussion. You should state all of them that are relevant to that particular issue or element. Thus, in our example, you could say: “BB is totally confined if, for however brief a period, there is a definite physical boundary beyond which he is physically prevented from moving; or he is physically forced to move in a specific direction; or, in the absence of any such physical restraint, a reasonable person in the same circumstances would perceive that they had no choice but to remain where they were or move in a particular direction. BB must also show that there were no reasonably available means of escape (i.e. means of escape that would not require the commission of a criminal act and would not pose a risk of physical injury to BB).”



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**The A, or application**, should be a full, complete, and express comparison of the facts to the legal standards or elements identified in the **R** part of the analysis.

“Express comparison” means that you must state the specific facts that support (or undermine) satisfaction of each legal element, and explain why they support (or undermine) satisfaction of each legal element. If, during your legal education, you have received a comment on your work that your answers presented insufficient analysis, this factor (express factual comparisons) is likely what you did not perform well enough.

Use as many facts as you can find to support a particular analysis, but do not write any sentences containing just fact. Examiners wrote the facts - do not simply parrot them back in your exam. Rather, use them – explain how or why they are relevant.

Do not skip any of the sub-issues/legal tests as being too trivial to mention; if you do, examiners may conclude that you missed the issue. For example, if the issue is total confinement, you would say that no minimum time of confinement is required, so the fact that BB was confined for only a few minutes does not defeat his action in false imprisonment.

When alternate legal tests exist, analyze each briefly. Thus, you could say that BB’s total confinement might be shown from the fact that JJ repeatedly asked BB to stop and that, given JJ’s apparent position of authority, BB may therefore reasonably have believed that he had no choice but to comply. You could then go on to say that, even if the facts do not clearly show that BB was “psychologically” confined in this way, he was nevertheless totally surrounded by a complete physical barrier when he was caught between the locked doors, which would amount to complete confinement in any event.

**The C, or conclusion**, in the IRAC is usually a very short, one sentence statement setting out your conclusion. It does not summarize the reasons you just gave, but rather simply provides a brief statement of the position you take based on your analysis above. After each such analysis, simply move on to the I step in the next issue to be analyzed. Your earlier roadmap sentence(s) should have told the reader the number of such analyses to expect. This four-step form for answering questions can be used as a template for answering any fact-based questions on any subject in a law examination.

***Good luck on your exams!***



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