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Introduction to the Guide

Our MPT Guide is divided into the following sections:

I. Get Familiar with the Basics

First, we walk you through the basics. You must familiarize yourself with what the Multistate Performance Test (MPT) is and how to approach different types of tasks, understand what the MPT tests so you can write high-scoring answers, and learn why you should take the MPT seriously.

II. Learn How to Format MPT Answers and How to Answer Each Type of MPT Task

Next, we describe the general structure you should follow in writing persuasive briefs, objective memoranda, letters, and *wildcard* tasks. Learning how to format an MPT answer will increase your MPT score as it will make it readily apparent to the grader that you know what you are doing. It will also increase your confidence on MPT day. In this section, we also provide you with tips for writing answers to each type of MPT task.

III. Practice Baby MPTs

In this section, we help you put what you have learned about formatting and writing MPT answers into practice. Here, we have four *baby MPTs* that use the same background information but give you different tasks to complete. These *baby MPTs* are shorter than real MPTs. Thus, they give you exposure to the different types of MPT tasks—as well as tips and tricks for completing each type of MPT task—but do not require you to spend 90 minutes per MPT.

IV. How to Make the Most of Your MPT Practice

Here, we tell you how to practice intelligently and efficiently. This section explains how long you should study for the MPT, how to self-grade MPTs, and how to use point sheets and student answers to achieve a high score.

➔ C. Tips for common MPT tasks (persuasive briefs, objective memoranda, and letters)

Now that you have a decent idea of how to approach the MPT and have memorized MPT task formats, here, we give you tips for specific types of MPT tasks that you may encounter.

Persuasive briefs and objective memoranda are the most common tasks. Opinion letters and demand letters are also regularly tested. In the next section, we will also cover wildcard tasks that do not fit into any of these sections.

1. Persuasive brief MPT task tips

A persuasive brief is the most common type of MPT task. You are generally asked to write the argument of a persuasive brief. Usually, this will be read by a judge, thus, you can use some legalese and write to an attorney rather than a layperson.

The goal of a persuasive brief is to *persuade!* We give you a few of our best persuasive brief MPT tips below.

a. The task memo and/or guidelines will tell you how to format your persuasive brief.

The task memo will tell you whether you must write a persuasive brief. The memo may tell you how to structure your brief or it may tell you to consult the guidelines provided for guidance on how to format your brief. Generally, the guidelines are on the page following the memo.

Your brief should always include a legal argument section and a conclusion. The Examiners will tell you whether they want you to omit or include a caption, statement of facts, or a short introduction that includes the key facts and a short summary of the legal questions to be answered.

For the vast majority of persuasive brief MPTs, you are asked to omit these extra portions.

Do not structure the brief the way you learned in your legal research and writing class in law school! The briefs you wrote in law school likely contained many more sections (e.g., a table of contents, procedural history, etc.). Your persuasive brief will be much shorter and contain fewer sections. In many cases, as mentioned above, you will simply have a legal argument section and a conclusion.

b. Craft strong headings that apply the rule of law to the facts.

As a general rule, if the MPT includes guidelines regarding how to write your headings, follow the instructions provided. For example, one of the MPTs from July 2012, *Ashton v. Indigo Construction Co.*, instructed examinees to write headings in complete sentences that apply a specific rule of the law to the facts. The MPT even provided the following examples of proper and improper headings:

- Example of a *proper* heading: The defendant's garage that sits 15 feet from the curb fails to comply with the setback requirements of the homeowners' association and should be removed.
- Example of an *improper* heading: The court should compel the defendant to remove all non-complying construction from the property.

This type of heading is very standard and expected on most persuasive brief MPTs. The point is, you want to usually wrap up the facts, law, and conclusion into a one-sentence heading.

c. Use persuasive language in your persuasive brief.

Keep in mind that the purpose of a persuasive brief is to convince the trier of fact to reach a particular outcome. To write a strong persuasive brief, use verbs of action and concrete nouns that create a clear image in the reader's mind.

d. Distinguish cases, but do not argue both sides of an issue.

Examinees often fall into the trap of approaching a persuasive brief the same way they would approach an objective memorandum. When writing a persuasive brief, make sure to acknowledge any case law that does not support your argument by

➔ B. Objective memorandum baby MPT—*Morales v. Elliot*

Task memo The first document in the file is a task memo, which states exactly what to do. Please use the file and library above to complete the task.

Smith & Smith Law Firm

To: Examinee

From: Partner

Date: July 24, 2018

Re: *Morales v. Elliot*

John Elliot hired a person named Miguel Morales to work on his farm. Mr. Morales worked on Mr. Elliot's farm in Franklin, took care of the garden, and did other tasks. He was hired and paid as an independent contractor. Recently, he was chopping down trees (with appropriate safety gear) when a tree fell on him and rendered him disabled. Mr. Elliot has come to us because he is worried that Mr. Morales may file a workers' compensation claim. He is wondering whether he would have to pay Mr. Morales workers' compensation benefits as well as potential penalties for not having the appropriate insurance coverage. The answer to this question will hinge on whether Mr. Morales was an employee or independent contractor at the time of his injury.

Please prepare an objective memorandum analyzing that question. **(This tells you exactly what you want to do—analyze the issues in an objective tone rather than arguing one way or the other.)** Do not draft a separate statement of facts. Do not discuss any penalties or the amount that he may have to pay Mr. Morales if, in fact, Mr. Morales is found to be an employee. **(This section tells you what *not* to do! Pay attention to it because you do not want to waste valuable time writing something you will not get points for, or even worse—something that will *reduce* your score based on an inability to follow directions. Maximize your score by sticking to what the memo asks you to do!)**

1. How to dissect this MPT

a. First, identify the task. Never lose sight of the task memo.

Here, the task memo is telling you to “Please prepare an objective memorandum analyzing that question.” This tells you exactly what to zero in on. It also states, “Do not draft a separate statement of facts.” This means that you should not repeat any facts in your introduction (though you should, of course, analyze them in your objective memorandum).

b. Second, read the library.

We recommend, as a general rule that you examine the library next. This way, when you read the facts, you can even start drafting your MPT. We also recommend that you try to work while you read, as oftentimes the MPT takes most examinees the complete allotted time to finish the task. **(Tip: Pay attention to what jurisdiction the case is in and what level of court decided the case.)** Here, we have two appellate cases from Franklin. But sometimes cases will come from other state courts (like Olympia or a different jurisdiction), and you must recognize that they are only persuasive, rather than binding, authority. **(Tip: If you have cases and statutes, it’s a good idea to first read the cases, and then read the statutes.)**

c. Third, review the statement of facts, and start drafting your answer using the appropriate format. The format for the objective memorandum is as follows:

- **Caption** (to/from/date/matter)
- **Introduction**
- **Discussion** (with headings to discuss each issue. Headings need not be complete sentences. Follow rule/analysis/conclusion after each heading.)
- **Conclusion** (summarize discussion)

d. Last, start writing your answer.

We have drafted a shortened version of what your answer may look like below. However, if you draft a brief memorandum of your own prior to reading the memorandum we have written, you will get a lot more out of this task!

2. Baby MPT answer

MEMORANDUM

(Remember to write out your caption here and fill out the relevant information.)

To: Partner

From: Examinee

Date: July 24, 2018

Re: *Morales v. Elliot*

I. INTRODUCTION

(This is your introduction paragraph. It should explain the purpose of the memorandum and state the issue, when applicable.)

This memorandum identifies whether Mr. Miguel Morales was an employee or independent contractor at the time he was injured. For the reasons below, the factors tend to show that it is more likely that he would be considered an independent contractor for purposes of Franklin law. However, this is by no means a clear-cut case as the factors are close to being evenly divided, and I think we should develop some of the facts—specifically, the facts regarding control—prior to advising Mr. Elliot.

II. DISCUSSION

(Next is the discussion portion. In this section, you should use bolded headings to separate the issues. Oftentimes, if there are factors present, each factor will receive its own heading.)

There are five factors listed in Article 3 § 14 of the Franklin Workers' Compensation Act. Here, we list the factors as well as some other important factors that a Franklin court may consider in determining if Mr. Morales is an employee or independent contractor.

Article 3 § 14 factors: