

Demand letter tips

1. Read the task memo!

Begin by reading the task memo. Underline any key terms, basic facts about the client's case, as well as any guidance on how to format your memo. Historically, demand letters have not been tested frequently. Therefore, more directions usually are included in the task memo. For example, *In re Linda Duram* on the July 2014 exam asked examinees to write a demand letter to the client's employer arguing that the client was entitled to leave under the Family Medical Leave Act (FMLA). Examinees were instructed to write a *persuasive* legal argument and to address counterarguments raised by the client's employer. Additionally, examinees were instructed not to discuss whether the employer and the client were covered by the FMLA. These are very specific instructions!

2. See if additional instructions are provided in the file

When examinees are asked to complete an uncommon task, generally the task memo will be at least a page longer than usual *or* an additional document in the file will provide formatting and substantive guidelines. For example, the task memo for *In re Linda Duram* instructed examinees to follow the format for demand letters, which were set forth on the following page. The instructions listed the sections of the demand letter:

- 1) [A] brief statement identifying the sender, and if appropriate, identifying the attorney-client relationship;
- 2) a brief statement of the purpose of the letter;
- 3) a brief description of the situation;
- 4) a thorough analysis of the basis for the client's claim, including a response to arguments raised against the claim; and
- 5) a specific settlement demand.

Note: The instructions above do not tell you to omit any section. Therefore, a high-scoring demand letter must include *all* of these sections.

3. Include responses to any arguments made against your client's claim

Remember, the purpose of a demand letter is to urge the recipient of the letter to take the action that you recommend in the final sentence or paragraph of the letter. Keep in mind that many of the objections to your client's claim will be contained in the correspondence found in the file. However, other objections are likely located in the cases found in the library. Pay attention to the arguments that the parties raise in the cases! Specifically, pay attention to the ones that the court accepts or dismisses in its discussion.