

Hi [REDACTED],

Below you'll find my comments for your answers, including parts I liked as well as critiques. At least the first question will have more feedback just because some of the comments there apply to others and didn't need constant repeating. Also included are my guesstimated scores. Please compare to your real scores let me know how I did.

Question 1 (Civ Pro) – 55

1. Great start to the answer. You laid out the various standards for determining personal jurisdiction, up to the constitutional basis, which is usually the meat of the answer. Nice headings. Critiques:
 - Get into the habit of separating rule and application, even for slam-dunk token issues like statutory basis. You don't want to commingle R and A, for the grader's sake.
 - **Rules for constitutional basis were incomplete** in that you didn't explain minimum contacts. You merely said minimum contacts require purposeful availment and foreseeability. Rule statements should stand on their own out of context. Mere recitation of broad terms instead of specific rules sounds like BS. (Purposeful availment to whom? Foreseeable how and about what? If, by any chance, you used my Magic sheets to study, this detail was missing and will be provided in the next update.) Even if one could infer the complete rule by reading the application, it should be set out first. If it helps, state the principle you use in the application in the rule statement.
 - Rather than "this element fails," use a conclusion that stands alone, e.g., "Thus, D did not purposefully avail himself to the state because [summary of application]." Also would have scored bonus points with me if you had a conclusion for minimum contacts ("Therefore, D lacked minimum contacts with the state because D did not purposefully avail himself nor was there reasonable foreseeability of being haled into the forum court.").
 - **No discussion of not offending traditional notions of fair play and substantial justice.**
2. OK to point to cited rules above.
 - Would still have headers for traditional and statutory bases.
 - Rules for fair play and substantial justice are very broad. Needed discussion of general and specific jurisdiction, as well as fairness factors.
3. Would have liked to see separation of the issues—federal-question jurisdiction and diversity jurisdiction, with R and A also separated.
4. Res judicata?

This answer starts off great but appears to have lapses in details within rule statements. Commingling of rule and application makes it slightly more difficult to read, and this should be minimized. Some important issues are missing.

Question 2 (Property) – 50

1. Restraints on alienation—good issue. Could have put in separate issue heading.
 - What about fee simple determinable?

- Application under joint tenancy: Seems conclusory to start with a conclusion. I would jump right into connecting the facts to rule (“Here, [facts]...”).
 - More discussion of tenancy in common would have helped instead of burying it under severance (not sure how tenancy in common relates to severance of JT—where’s the rule or even an issue header?)
 - Perhaps an alternate arrangement of issues could have had each party as the main issue, with analysis for each person. Your answer had each type of interest (fee simple, joint tenancy, [TIC]) and drew the interests of each person at the end. **When you see a call looking for rights/interests of each party, strongly consider separating by party.**
2. Nice, quick answering of call. Again, R/A.

This answer attempts to address the call, but I think a better organization would have helped (see above about organizing by party). The second call directly asked for the issues, so it was straightforward. The bulk of the question was directed to the first call, where there was opportunity for additional discussion, such as the right of each person and tenancy in common.

Question 3 (Crim Pro) – 45

1. Great that you mentioned the threshold issues (state action, REP) first. Good to have these issues up front before you analyze, as constitutional questions tend to have them.
 - Any more warrant exceptions?
2. Incomplete. See sample answers for what possible warrant exceptions could have been.
3. Eavesdropping seems like a good place to talk about reasonable expectation of privacy (and perhaps D does not meet that requirement to merit a full discussion of warrant exceptions?).

This answer appears to be missing almost all of the issues and does not demonstrate a passable understanding of Criminal Procedure concepts.

Question 4 (Community Property) – 60

1. Great that you mentioned stated CA’s CP rules in the beginning. Good use of facts under transmutation. Issues are addressed.
 - What’s the characterization of the assets? CP or SP? This is a different issue from disposition (distribution upon divorce/death).
 - Disposition is different depending on whether it happens because of death or divorce. Should state the rule for disposition at divorce.
2. Debts are *generally* CP, rather than all debts including child support. Nonetheless, the issue was set up and there was some discussion.
 - Was there SP that could have been used for reimbursement?

This answer appears to understand the basic approach for Community Property essays. Improvement would come from clear rule statements for each issue (e.g., distribution *at divorce*) and accounting of the various assets. Taking stock of all the assets and debts and their characterization as CP/SP will prove useful for answering the calls and issues where CP/SP is used up before using the other.

Question 5 (Business Associations & Prof. Resp.) – 60

1. Good discussion of relevant issues. It was good that you brought up BJR in connection with the duty of care (but it seems to be a presumption that supports the duty of care, rather than an exception or a rule to be “met”)
 - Are derivative suits relevant here?
 - Duty of loyalty has a few specific related issues, not just that directors need to act in the best interest of the corporation. Terms of art include: self-dealing, corporate opportunity, ratification
2. Good to see separation of potential and actual conflicts.
 - There is no mention of ABA/CA rules! For example: “Under ABA rules...” or “Under CA ethic rules...” When in doubt, say: “Under ABA and CA rules...”
 - There is an issue about the corporation vs. its constituents being the client of a lawyer.
 - Not understanding the “business transactions” issue and violation thereof.

This answer appears to hit all the broad, major issues. Again, would have liked to see separation of rule and application, as well as adding smaller issues and accuracies in the rules.

Question 6 (Con Law & Property) – 55

- 1-3. Good that you mentioned the threshold issue of standing. What about state action? When applying constitutional law, always mention state or government action.
 - Some sub-issues are missing: zoning, nonconforming use, variance (all of which I wasn’t even aware of back in February, 2014 but seems to be popping up more nowadays).
 - What about the types of taking? Regulatory taking, possessory taking, partial taking, etc. Yes, the ordinance makes it a regulatory taking but perhaps a quick mention of a physical, possessory taking could have added a bit of depth to your answer.
 - This means the first call was also a regulatory taking and could have used further discussion in that regard. Why did it start on the second call?
 - Application appears conclusory (even if it isn’t) because it starts with the conclusion. Start application with facts connecting to rule and other facts. For example, simply replace “the taking is for public use because, first...” with “first...” or whatever comes after that. See elsewhere above for more on this.

This answer analyzes the takings issues in some depth but doesn’t address issues raised by the zoning mentioned in the facts.

Question 7 (PT-A) – 55

- A. Great that you underlined case names. This will make them pop out and signal that you’re using cases to support your arguments. You’ve used Andrews and Visueta to cite rules. In one case, you cited D’Amica within Visueta, which I liked.
 - I would use as much of the file and library as possible when putting together your answer. Although your argument A hits the main points, it appears lacking in substance in that you’ve stated them very succinctly. In a PT, you want to use as many relevant facts and law as possible.

- II has to prove material facts by preponderance, per Rutherford (cited in Norris). Seems like a useful standard for summary judgment (for each arguments A-C).
- Andrews' plaintiff describes someone insulation as "raggedy beat-up dusty stuff." Is that comparable to "very heavy dust" in the file and called out within the opposing motion?

B. If you wanted to analogize to Visueta, what were the Visueta there?

- What were the contradictions you mention?
- What does this mean? I'm not understanding this. Was there a case law about this?

interrogatories that were not even responded to. Any claim also that they were not contradictions but "ambiguosus" also fails because Wilson failed to respond to those interrogatories seeking clarification also.

C. Nice citation of internal cases. There seems to be some substance here with

- Even if there is an absence of facts, it doesn't mean you can get away with saying that. What did he identify instead?

Lastly, Wilson, may have engaged an expert when he had Charles Nye make a declaration, but he still failed to identify: 1. the Standard of Care and 2. a Description of its Breach. Both are needed.

This answer conformed to the argumentative style as instructed, but it needed more substance in facts and the law. That is, you should use pull out more facts and use more of the rules in the given cases. Generally, you may start a PT with the library to pull out rules from cases (you've been doing this since 1L) to get the context of what kind of facts will be important. Recite the rule statements you pulled out, and as you go through the file, put relevant facts under each case or rule statement. Your "briefs" can look like this:

Case 1

- Rule statement—feel free to quote and cite entire passages verbatim!
 - Fact statement
 - Fact
 - Maybe important facts
- Rule statement—feel free to quote and cite entire passages verbatim!
 - Facts

Case 2

- And so on

This should help you build an organized outline, where you will have plenty of facts to work and copy paste with. You can also provide citations to the file (e.g., Declaration of X). To get better at using material facts, practice "fact spotting" where you just note, underline, highlight, etc. the important facts (and compare with answers).

This is hearsay, but I heard that PT graders like to see a lot of words. Graders tend to skim, however, so make issues and sub-issues clear with headers. This should be done in every essay regardless.

Question 8 (PT-B) – 60

- Good that you're speaking to your audience, Mr. Field.
- In an objective memo (like essays), headers should be neutral issue statements rather than conclusions. This killed me my first time when I concluded ahead of time in essay headers.
- It appears that you've used more laws and facts here. However, like your essays, you introduce with conclusory remarks, such as:

Under the above law, Ms. Israel and Mr. Lennox's refusal was likely inappropriate because not only did they refuse what was requested, there was a refusal to provide anything at all. What they should have done to satisfy the

Here, in our specific situation with Ms. Baker, we likely interfered with Ms. Baker's right to engage in concerted activity by maintaining and enforcing a policy prohibiting employees from discussing employee disciplinary matters, including ongoing investigations of employee misconduct. The law only gives the

- This type of statements is more appropriate at the end of your arguments. You can just start with the facts only.
- Under issue A1, you used some ping-pong arguments, which are appropriate only in objective memos like this. Could you have used one in issue A2?
- As for the remedies, you cited a statute and a case. There's not much discussion of either, nor do you apply the law to the facts. For example, see your analysis in its entirety:

Here, in our specific case with Ms. Baker, we will not have to reinstate her or pay her back pay because she was terminated with cause for the theft of state resources when when she on 16 occasions called in sick while she was working at another job as a court reporter, and when she used the states resources, including hours, equipment, to transcribe deposition for her own business. These are all sufficient causes for discharge.

- Yes, typically in real life, what Ms. Baker has done would be grounds for termination for cause—"sufficient causes for discharge" as you say. But is this the case in Columbia? Was there anything in the case you cited that you could analogize or distinguish with? Bonus points: Any counterarguments?

This answer hits the major issues called for by the assignment. The tone, however, could be improved slightly. For instance, since this is an objective memo, it's preferable to not make conclusions ahead of time. You can still keep the tempered "likely" conclusions that you've

included (but put it at an appropriate spot such as the end of your arguments). And as with PTs in general, corral as many facts and law as possible. This one had especially many cases you could have worked with, but you've used two cases.