

In part, the PT is an exercise in timing, organization, and endurance. Generally, doing and reviewing at least 1 or 2 PTs per week (such as every Tuesday) gives you a good amount of practice. Adjust for how well you do, but do more than you think you need to. Also, generally, it's more of a matter of how many you go through ([even just reading them](#)) rather than how deeply you try to understand each one (unlike MBE and essays). Both are important, of course.

At an absolute bare minimum, take a look at [one objective memo and one persuasive brief](#) before your exam. I personally did 3 the first time and 5 the second time. They were simulated, [3-hour exercises](#).

If doing an objective memo, I use different colors (e.g., red and blue) to set up potential arguments for each side, counterarguments included. For example, I'll underline parts of the File and Library that support my client's case in [blue ink](#). Things that support the other side will be in [red ink](#) to anticipate the opponent's argument in my work product later.

Set Word to Web Layout instead of Print Layout to create a continuous workspace and simulate the width of the text area in the test software (assuming you're typing).

## DECONSTRUCTING MPT

1. **Review the Task Memo** (~5 mins) = [most imp't doc. who is your client, what product? obj. vs. persuasive?](#) [Incorporate all facts in task memo into the analysis. What is the client's goal? Incorporate client goal! Look for organizing principles. If you see a list in a task memo – is this the list to structure as a micro-analysis? When there are multiple issues \(like 4\) – some might be similar.](#)

If the question is "will we prevail?" then, you probably just need to go to the cases. If the question is "what's Mr. Smith's best argument?" it's probably more about documents/statute. This is something that you'll understand better with experience.

2. **Setup Performance Test Skeletal Outline** (~5mins)
  - a. Include [Introduction. Conclusion, Macro Headings](#)
  - b. If document that will provide organizing principles (e.g., letter, motion) is mentioned, [read that next](#).
3. **Skim File** (~5 mins.) [look at headings, bolded text] – skim in a circular motion. what docs do u have in the file? highlight headings of the doc. Things in [quotes/ #s/ lists stand out](#).  
[For transcripts – read the first line of a big paragraph](#) to see what they are talking about to see what the facts are for each specific issue. Pay attention to [#s – read the sentence](#). Pay attention to [quotations](#).
4. **Skim & Read Library** (~15 mins) – read the statute's headings and [see if they fit in the headings](#). Then [put the statute under relevant argument](#).
  - a. [If a lot of statutes, read the headings](#). If definitions – eg, credit card, unauthorized [color the rules]. Skim through them, don't need to read them.
  - b. [Cases](#) – skip facts, right after procedure, they'll get into rules. When highlighting rules, usually leave a break (leave last word out) also helps w/ elements. This helps identify # of rules. Color holding in a diff color. [Holding for Rule Proof – convert it into the terms related to your heading](#) (GET INTO THIS HABIT! Will be easier when you're reading it to flip it) [Policies are great to incorporate into a counterargument. Need to have a counterargument in every performance test!](#) Diff color
    - i. [Rules](#) are broad and general. Analysis contain pts specific names. [usually broken in separate para. But sometimes might need to read carefully]. If one case as a lot of rules, the other case a lot less. Will use these a lot of rules throughout. Can usually leave out the introductory clause
    - ii. [Case's analysis length – is a hint to us how big or small our issues are](#) (also shows that even though there might be a lot of rules for that analysis, I might not need to use all of them). Highlight analysis in a diff color. Distinguish any industry customs, differences. How to [take the narrow facts of the case and generalize them to make easier comparisons](#).

- c. Read each case with purpose – pay attention to yr/ct. For example, are there cases cited in the main case that refer to USSC decisions? Leverage those! Language like...” Most notably, the U.S. Supreme Court held...The court reasoned that...”

read 1<sup>st</sup> line of each para. (not the 1<sup>st</sup> sentence). Try to identify what the para. is – fact? PTs are IRACed for u. Issue, facts. If para. starts with facts then usually all facts. Do not read the facts in the case. Most salient and applicable facts will be contained in the analysis of the case. Skimming – facts, facts, procedural history, rules. Start to slow down at procedural. At rules, focus here a lot. Reading each case, match with the issue headlines. skim and mark up the cases. Where does this case fit? Statutes too. A note about statutes – won't use every statute. Read the headings. And then refer to cases and see what statutes they use. Statute + elements in case. If one statute, then will probably have to parse it (still go to cases first)

- d. Focus on the analysis of each case
- e. Assign cases to appropriate issues
- f. Identify where to draft rule explanations / case explanations / rule proofs – slow down when you get to case rules. How does the court apply the law to the facts of the case. Pay attention to how in depth ct goes into each issue. More time spent on analysis – will tell u how big of an issue is for u. Tons of analysis = hint for you to allocating time and weight of each issue.
- Issue is whether agency relationship is formed and if agent had apparent authority. What did the court hold on the issue?
  - Based on the issues I have, how does this ct interpret in that case. Will I analogize or distinguish it? What did the ct hold.

As a general organizational matter, after introducing the rule, I would then give a brief summary of each of the relevant cases before you start analyzing the facts of your case...aka rule proof

5. **Draft rules & rule proofs** (~15 mins)

- In [case name] the court held [holding] because [facts + reasoning]. When you state the holding – tie it to the headline of your issue. Convert the holding to be relevant to your facts!
- For rules that apply throughout the analysis, put them on the top. – ie, private actors need to be state actors for constitutional limitations to be applicable.
- Rule Proof: “In Bak, court held the Principal was legally obligated to pay for the charges its agent made and that the purchases were not unauthorized within the meaning of the Truth in Lending Act because [insert relevant facts – type verbatim (omit specific facts i.e, “fuel” sellers). In BAK, the agent had a title that imbued him w/ apparent authority (as typing, omitting very specific facts) than might arise from voluntary relinquishment of a credit card in other contexts and the agent used the card for a vehicle that card had the registration # of printed on it. Additional in BAK, it was industry custom for agents to have a credit card similar for various purchases.

6. **Read File** (~15 minutes) —usually easy if you can get through steps 4+5

- transcript or long doc with many facts. Usually broken up in issue. Its written in a way to make it easy for your analysis. Esp transcripts (client interviews – will also give you counterarguments) – see them and accept them

7. **Write Analysis** (~25 mins) —usually easy if you can get through steps 4+5

- Make comparisons between facts from cases in library and file facts.
  - usually writing paragraphs or under the respective headlines. pay attention to how you position the holding. Just like in Smith, Defendant did x – our client did the same. Therefore, just like Court held that D was financially responsible.

8. **Proofread** (~5 mins.)

**BASIC STRUCTURE FOR ALL PTs:**

I. INTRODUCTION [write this on the outset]

1. Reiterate what the task memo tells you to do

2. Write in correct tone and to the task

*Client: Thank you for allowing me to do this research for you...*

*i.e.: Below, please find my analysis regarding (1)... (2)...(3). [usually reiterating last paragraph of the task memo]*

## II. ANALYSIS / ARGUMENT

1. Figure out your headings – ideally you have your heading figured out before you go to library. So can place authorities in their appropriate places.
2. Follow CREAC/CRPAC/IREAC
3. Identify where you will use the cases/statutes

## III. CONCLUSION *[write this on the outset]*

1. Re-iterate what you want
2. Keep your client's goal in mind
3. Canned conclusion for objective task

Usually, your client gets what they want. I.e., *Thank you for allowing me to conduct this analysis for you. If this there anything I can do to be of further assistance, please let me know.* *[if time permitting can go back and add to this]* **Better to run out of time in the middle vs. making it look obviously incomplete (via missing conclusion)**

### I. Analysis

[Rules that apply to whole PT]

#### Short Answer

#### Analysis

Rule: does not contain pts specific names.

Proof: In X v. Y, the court held the Principal was legally obligated to pay for charges is agents made and that the purchases were not unauthorized within the meaning of Truth in lending act because nothing about the CC itself or the circumstances surrounding the purchases, gave sellers reason to distinguish the authorized from unauthorized purchases. In X, the agent had a title that imbued w/ more apparent authority that (copying verbatim and omitting v specific facts), might arise from voluntary relinquishment of a cc in other contexts...

Analysis: usually contains pts names.

Conclusion

Need to have counterarguments (good place to use policy) – every PT needs counterarguments.