The Massachusetts Bar Exam

Kandace J. Kukas, Esq
Assistant Dean
Western New England University School of Law
Components of the Bar Exam
who creates the bar exams?

MBE
MEE
MPT
MPRE
State Essays/MCQ etc…
The MA Bar Exam

Format
- Weds: 200 MBE MCQ’s
- Thurs: 10 Essays
- Essays: 50%
- MBE: 50%

Contents
- All MBE subjects
- Agency/Partnership
- Corps
- UCC (1-9)
- Bus Organizations
- Wills and Trusts
- Family law
- Professional responsibility
- 93A
- Mass Practice and MA Evid.
- Access to Justice

Need 270/400
The Multistate Bar Exam (MBE)

- National exam
- 200 Questions, 190 scored 10 test
- Nationally graded, results given to states
THE MBE

• Last Wednesday in July- all states but LA
• 6 hour 200 Question Multiple Choice exam:
  - 3 hours, 100 questions in the morning
  - 3 hours, 100 questions in the afternoon
  - ~27 questions in each subject
• Subjects really include:
  - Criminal Law: includes Criminal Procedure
  - Constitutional Law: includes 1st Amendment
  - Contracts: includes Sales
  - Evidence
  - Property: includes Landlord/Tenant
  - Torts
  - Fed Civ Pro
• States determine % of use for their exam:
  - MA 50%.
MBE Breakdown

Contracts
- Consideration, 3rd Party Ben., SOF, etc 40%
- Formation, Conditions, Remedies 60%

Constitutional Law
- Individual Rights 50%
- Other Constitutional Law Issues 50%

Criminal Law
- Crimes 50%
- Procedure (Due Process) 50%

Torts
- Negligence 50%
- Other Torts 50%

Evidence
- Relevance, etc 33%
- Hearsay 33%
- Presentation 33%

Real Property
- Titles 20%
- Ownership 20%
- Mortgages 20%
- Rights in Land 20%
- Contracts 20%
- Other Real Property Issues 20%
Added in 2015 Federal Civil Procedure

• 2/3 on Getting to Trial
• 1/3 on Law, Trials & Appeals
• This past Feb saw more specific questions on timing of discovery as well as decisions & appeals/"de novo" hearings showed in 3 questions.
Massachusetts State Essays

Always Thursday - created by MA Bar Examiners

- 10 Essays; 5 AM, 5 PM
- 36 minutes per essay

- Multi-topic
- July 2016 adding “Access to Justice”
- Feb 2016 showed new question format
- Answer Format: IRAC or CRAC
Topics tested

- Agency
- Partnership
- Corps including LLC, LLP
- UCC (1-9)
- Bus Organizations
- Wills and Trusts
- Family law
- Professional responsibility
- 93A
- Mass Practice
- Access to Justice

- Contracts
- Property Incl. Mortgages
- Torts
- Criminal Law
- Criminal Procedure
- Evidence
- Constitutional Law

MASS DISTINCTIONS
Mike was the Chief Executive Officer of a Massachusetts company (“Techcorp”) during the summer of 2001 when he met Deborah, a 16-year-old intern working at Techcorp. Shortly after Deborah left Techcorp at the end of the summer, Mike and Deborah started dating. In February 2002, Mike and Deborah executed an ante-nuptial agreement stating that (a) Deborah waived all rights to alimony or any other support from Mike; and (b) any debts incurred by either of them after marriage would be the sole responsibility of the spouse who incurred them. In March 2002, Mike and Deborah eloped to Boston, where they were married. They did not tell Deborah’s parents about the marriage. Deborah lived with Mike in his condominium under protest from her parents. After their marriage, Mike began to drink alcohol heavily and use illegal drugs on a regular basis. He was frequently impotent. The couple separated in November 2005, after several years of unsuccessfully attempting to have children. At the time of the separation, the couple was on a waiting list for donor eggs to pair with donor sperm for in-vitro fertilization (“IVF”). In January 2006, donor eggs became available, and Deborah sought Mike’s consent for Massachusetts Fertility Clinic (“MFC”) to begin the IVF process. Mike refused initially, but agreed after Deborah, who was desperate to have a child, threatened to disclose his substance abuse problems to Techcorp. Deborah subsequently underwent several unsuccessful IVF treatments. The clinic required a new consent form from Mike for each treatment. On the consent forms, Mike added a notation that he was signing pursuant to the February 2002 agreement. In November 2006, Mike executed a consent form for a procedure that resulted in Deborah’s pregnancy. Deborah gave birth to Tim in 2007. After Tim’s birth, Deborah requested child support from Mike, who refused. Around the same time, Deborah was sued by Commonwealth Substance Abuse Center (“Commonwealth”) for charges incurred by Mike when he entered Commonwealth’s inpatient treatment program. Also around the same time, MFC sued Mike for the cost of the IVF treatments. Deborah decided to divorce Mike after Deborah’s new boyfriend proposed marriage to her. **What are the rights of the parties?**
Taking two bars?

- Make sure they fit-Tues/Weds/Thurs
- MA can be taken with NY, NH, CT, RI, VT, FL etc
- Questions to ask yourself…
  - How did I do in school?
  - Did I take all/most subjects tested on the bar?
  - What is my summer schedule like?
  - What is my support network?
- Specific Rules when adding a UBE state (NY, NH and VT)
What is the UBE and how does it fit with the MA Exam?
The Uniform Bar Exam

• Uniform Bar Exam- created by NCBE, available in 19 jurisdictions
• 6 MEE essays, 2 MPT’s and MBE always Tues and Weds
• MBE subjects plus business associations, family law. Conflicts of law, Trusts and Estates UCC 2 and 9.
• Students have SCORE reciprocity with other jurisdictions- dependent on transfer in jurisdiction and age of score; 18 mos to 5 years.
• Must take entire exam in UBE state
• CT is not UBE but uses all components
Components of the UBE and how they Differ from the MA Exam
The Multistate Performance Test (MPT)

• “Each test evaluates an examinee’s ability to complete a task that a beginning lawyer should be able to accomplish.”
• Closed File
• No substantive law
• 90 minutes

• MA does not use MPT but the new essay format could be construed as a modified MPT.
The Multistate Essay Exam (MEE)

- Business Associations (Agency and Partnership; Corporations, LLC’s)
- Conflict of Laws,
- Constitutional Law,
- Contracts,
- Criminal Law and Procedure,
- Evidence,
- Family Law,
- Federal Civil Procedure,
- Real Property,
- Torts,
- Trusts and Estates (Decedents' Estates; Trusts and Future Interests),
- UCC Articles 2 & 9 ONLY

VERY SPECIFIC QUESTIONS- 30 MINUTES- MUST KNOW AREA OF LAW WELL.
The Massachusetts Application
MA Bar Application

- When are they available now?
- When do I apply?
- When are applications due?
- Is the application period limited?
- Can I see them now?

- What do they ask........
Character & Fitness

• Is it part of the application?
• Massachusetts- YES!
• What do they ask?
  - Employment since 18- if terminated must explain
  - Ever reprimanded, suspended expelled?
  - Ever charged with unauthorized practice of law etc?
  - Unsatisfied judgements?
  - Charged or investigated for felony, misdemeanor, fraud, breach of fiduciary duty, wrongful conduct etc…
  - Filed Bankruptcy?
• What If I have a concern?
More Details- MA Application

- Must be received by deadline
- Court Filing Fee $815/$890 plus $100
- All documents must be with application
- 2 letters of rec. 1 Attorney sign off