BAR EXAM BOOT CAMP
SESSION TWO
Common Mistakes

• Answers that are too conclusory. Use the facts!
• Lack of clear rule statements
• Missing the life estate issue.
• A note about NP/LP/P/HP
Skills done well

• Most did a good job on the first question – listing the elements and addressing each element.

• Great answers used headings that made an argument.
Point one

(1) Billy Bob’s will is a valid holographic will. [Conclusion]
In Texas, a holographic will must be written entirely in the testator’s handwriting, signed by the testator and indicate testamentary intent. [Rule]
Billy Bob handwrote the entire will, so the first element is satisfied. [Analysis of element one]
Billy Bob signed the will, so the second element is also satisfied. [Analysis of element two]
Finally, Billy Bob clearly indicated testamentary intent by using the words “Upon my death,” and then indicating a disposition of real and personal property. [Analysis of element three]
It does not matter that the will is not dated or witnessed or that it is written on a cocktail napkin; holographic wills do have the same requirements as a formal will. [Additional analysis]
Because the contents of the cocktail napkin satisfy all of the necessary elements of a holographic will, Billy Bob’s will is valid. [Conclusion]
(2) Billy Bob’s estate should pass to Donna in fee simple. [Conclusion]

The issue is whether Billy Bob’s will gave Donna a life estate only or whether he gave all of his real and personal property to her in fee simple. [Issue statement]

To create a life estate, a testator typically uses the words, “To X for life,” but the wording need not be exactly the same. An outright granting of property without any qualifying language transfers property in fee simple. [Rule]

In this case, there appears to be both types of language used. Billy Bob states that “Donna gets everything till she dies” which would seem to create a life estate. However, Billy Bob also wrote “I leave to Donna all real and personal property” without a qualifier. This non-qualified language transfers property outright. [Analysis]
There is a presumption in Texas that a testator intends to completely dispose of his entire estate rather than having any portion pass by intestacy. [Rule]

Because Billy Bob is a layman, it is unlikely that he understood the potential technical meaning of “till she dies.” [Analysis]
The court should place greater weight on the second sentence, which devises all of Billy Bob’s property without qualifiers to Donna. [Analysis]
Though Donna is now deceased, because she passed away more than 120 hours after Billy Bob, Billy Bob’s property will pass to Donna’s estate. [Rule/Analysis]
Billy Bob’s estate should transfer to Donna’s estate. Wanda takes nothing. [Conclusion]