BAR EXAM BOOT CAMP
SESSION THREE
Skills done well

• Everyone got the first question right.
  – Listing out the rules and applying them in a logical sequential order.

• Correct application of CRAC – and a few issue statements.
  – Rule statement were MUCH better and more clear this time.
Common Mistakes

• Missing an issue. With the duty of loyalty, competition was the real question.
• Some inconsistencies. How can Fred be “using partnership property” if the printer is his?
• Be careful with facts – some misquoted them. Read very carefully.
• Be careful with repetition. You shouldn’t ever need to re-quote a rule.
Working with rules

• Simple rules
  – If A, then B
  – Think strict liability
    • If you sell alcohol to a minor, you’re guilty a crime. Doesn’t matter if they presented fake ID or looked 40.
    • If answer filed within 20 days of service, answer is timely. If not filed within 20 days, not timely.

• Elemental Rules (most common)
  – Example: Battery
    • (1) intent, (2) touching, (3) touching must be harmful or offensive, and (4) must be done to another.
    • Make sure you know the rule for each element.
    • Elements often have sub-elements (i.e. what’s harmful or offensive? Transferred intent?)

• Factor Rules
  – If A, B and C weighed together justify Z, then Z.
  – A, B and C are factors. Unlike elements, you need not satisfy each one, but weighed together they get you to Z.
  – Example: Material Breach in contract law. Consider (1) Extent to which injured party will be deprived of expectation, (2) Extent to which injured party can be adequately compensated (3) Extent to which party failing to perform will suffer forfeiture, (4) Likelihood party failing to perform will cure his failure, and (5) Extent to which behavior of party failing to perform comports with duty of good faith and fair dealing.
Working with rules, cont.

• Rules with Exceptions
  – If A, then B, unless Z.
  – Look for “unless, “except,” “but,” and “but if.”
  – Example: Recovery of Property taken via fraud – a person who has been induced by fraudulent misrepresentations to transfer title may recover the property UNLESS the person in possession was a bona-fide purchaser of the property.
  – Partners may not bind partnership without actual authority UNLESS an innocent third-party Vendor has reason to believe the partnership is bound.

• Alternative Rules
  – If A or B, then Z.
  – Look for “either” and “or.”
  – Example: Punitive damages may be awarded if the defendant exhibits fraud or malice.
  – A partner may violate his duty of loyalty to a partnership if he directly competes with the partnership. Duty is also violated if partner uses partnership property to gain profit and does not share that profit with the partnership.
Today’s Assignment

• When you make rule statements, tell me, in parentheses, what type of rule it is.