

Essential Elements

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Contracts, Torts, and Criminal Law

Meredith Muller



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This book is dedicated to my students who worked tirelessly to study for both the FYLSE and the Bar Exam. They trusted me as well as the process, even though they often wanted to give up. They spent many precious hours with books instead of family and friends in an effort to pass. I am honored to have been a small part of their success and am proud to have been their Professor. My hope is that this book helps other equally determined students beyond the confines of my classroom. You can do this!

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Foreword

A Special Message for Students Preparing for the FYLSE

*by Dean Steven Bracci**

The information shared in this book will help as you prepare for your final exams in your substantive courses. Understanding the concepts contained in this book will also help put you in a strong position achieve your ultimate goal of succeeding on the bar exam.

For those students that may be subject to California's First Year Law Students' Exam, or "FYLSE," I'd like to share some additional information and advice. As you may already know, the FYLSE is a one-day test covering the three first year subjects of Torts, Contracts, and Criminal Law. Law students who are required to take the FYLSE must pass the exam at the end of their first year of law study to continue with their legal education.

The FYLSE represents the longest single day of law testing administered in California, and one of the longest testing days used by any state law testing authority in the country. Students must answer 4 essays in a morning session lasting four hours, and then, following a lunch break, students must answer 100 multiple choice questions in a three-hour session.

The starting point in preparing for the FYLSE and other Bar Examinations is a thorough understanding of the applicable law. This means not only knowing rules and concepts, but also understanding how the rules and concepts interrelate. Ideally, the flowcharts you will encounter in this book along with a well-developed outline of each subject will help you in this regard.

* Dean Bracci is a well-known lecturer and has been teaching law since 1979. He is an expert in examination techniques and has conducted writing and test-taking seminars nationwide.

However, to pass such an exam, students must not only know the applicable law but must also possess the skills necessary to succeed on each portion of the exam. Over the years, I've worked with many students who had a good working knowledge of the applicable law but were for the most part unsure as to how to apply that knowledge to a fact pattern. Mastering the application portion of the equation takes a great deal of practice to develop the necessary skills.

On the essays, this means demonstrating the ability to "think like a lawyer," which means to show the ability to differentiate between discussible and non-discussible issues, explain the law applicable to the particular issue, and discuss how the facts of the question need to be considered to support a logical conclusion. On the multiple-choice portion, this means possessing the ability to apply the law to a fact pattern and select the best answer from four alternative choices. This book will help you develop those skills if you take the time to practice as suggested.

It is not easy to pass the FYLSE. It will take many hours of study to succeed. Unfortunately, when students finish their finals, the natural tendency is to "let down" and take a break from the intense study of preparing for the finals. However, it is essential that the finals be viewed as merely a "stepping stone" to passing the FYLSE. You must work to improve even more so that you will be ready.

Professor Meredith Muller is extremely gifted in helping students master these skills. For many years, Professor Muller has worked with students preparing for both the California Bar Exam and the FYLSE. She has succeeded in greatly improving performance. She is one of the most knowledgeable people in the country with regard to bar study, and an excellent source of information on how a student should maximize preparation for exams.

Whether you are studying for your final exams, the FYLSE, or bar exam, we all congratulate you on your success to date and wish you the best of luck.

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Second, I'd like to thank my mentors. Jack Goetz, you started it all by giving an idealistic young lawyer a chance. Thank you for seeing the teacher in me. Greg Brandes, you taught me how to teach and helped me grow. Thank you for teaching me patience and grace. Steve Bracci, you are the source of my ambition. I always said, when I grow up, I want to be Steve Bracci. Thank you for giving me my moxie.

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Finally, I truly thank God for my family, friends, and many blessings sometimes disguised as obstacles. Sometimes God puts a Goliath in your life to help you find the David within.