SEPERAC UBE MASTER OUTLINE
JULY 2017 UBE EXAM
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INTRODUCTION

Using this outline is fairly intuitive, but if you want to fully understand its benefits, please continue reading this Introduction section. At a minimum, examinees should read about how to use the hyper-links because they enable you to utilize other resources to supplement your studies.

The Seperac UBE MASTER outline contains the following features:

The UBE MASTER outline is keyed to the 2017 NCBE Subject Matter outline

Each year, NCBE provides a subject matter outline that indicates the MBE and MEE's scope of coverage. According to NCBE, the test items for each MBE and MEE exam are developed from these categories. The UBE MASTER outline is specifically keyed to the most recent NCBE outline to cover all the items NCBE regards as testable. Both outlines share the same categorical divisions – the UBE MASTER outline contains 358 categories based on the ABC-level items in the 2017 NCBE Subject Matter outline. Thus, you will be seeing the categories the same way NCBE wants you to see them.

By strictly adhering to the NCBE Subject Matter outline categorizations, the MBE content in the UBE MASTER outline is proportionally and contextually balanced. For example, based on the 2017 NBCE Subject Matter outline, the subject of Real Property consists of five categories: (1) Ownership; (2) Rights in Land; (3) Contracts; (4) Mortgages; and (5) Titles. Each category is equally weighted, meaning each category will represent 20% of your Real Property MBE score. However, if you look at the MBE outlines of the big bar reviews, you would not see anything remotely close to these proportions. For example, 44% of Barbri's Real Property outline is based on category 1 (Ownership) even though it is only 20% of an examinee's MBE score. Meanwhile, 7% of Barbri's Real Property outline is based on category 3 (Contracts) even though it is 20% of an examinee's MBE score. Likewise, 8% of Barbri's Real Property outline is based on category 4 (Mortgages) even though it is 20% of an examinee's MBE score. Kaplan is similar – 45% of Kaplan's Real Property outline is based on category 1 (Ownership); 9% is based on category 3 (Contracts) and 9% is based on category 4 (Mortgages).

In contrast, the UBE MASTER outline is designed to have 25 pages of black letter law per MBE subject with each page intended to represent 1 MBE question (e.g. for Criminal Law/Procedure, 12 of the 25 pages are on the Constitutional Protection of Accused Persons making it 7% of the UBE MASTER OUTLINE since it is expected to be 7% of your MBE score). Thus, the black letter law sections of the UBE MASTER OUTLINE will appropriately tell you what to expect on the upcoming exam (both contextually and proportionally), while the built-in MBE rules and MEE issues will tell you what was tested on the past. This is about as complete a picture as you can have of the current MBE exam. Furthermore, when you study based on the priorities, you will not be spending too much time on the past, or too little time on the current.

NOTE: Of the 168 MBE ABC categories in the UBE MASTER outline, about 5% of them are longer than their expected content based on my 175 MBE question/175 page methodology. It was necessary to do this to cover all the material that may be tested on the MBE for that ABC category.

The UBE MASTER outline is intended to be your MBE study bible

Examinees should treat the UBE MASTER outline as their personal MBE study bible. I strongly believe there is no better representation of the current MBE than this outline in as condensed a format. You should assume that

each page of black letter law (which will sometimes span multiple pages depending on the number of corresponding MBE Rules/MEE issues) will represent 1 of the 175 graded questions you will see on the MBE. Thus, if there is a part of the outline you don't understand pertaining to an MBE issue, you must review/research it to understand it. The MBE tests both past topics and new current topics and this outline is intended to help you with both. The past MBE topics are reflected in the built-in MBE rules (I wrote synopses of the law for each of the 1,600+ released NCBE questions – these are the same questions in Adaptibar/Strategies & Tactics, Barmax, etc.). The past topics and new current topics are reflected in the black letter law sections of the outline. I devote one page of black letter law (font size of 10 – feel free to increase it if you find it too small) to what I expect to represent one MBE question on the exam. Thus, there are approximately 175 pages of black letter law for the 7 MBE subjects, plus the built in MBE and MEE issues. The past topics and new current topics are also reflected in the built-in MEE issues (over past 400 MEE issues related to the 7 MBE subjects) because past MEE issues have been turned into MBE questions (especially with Civil Procedure). Accordingly, knowing the past tested MEE issues will help you on the MBE. Finally, the outline is highly prioritized. It is sorted by subject based on how much each subject is expected to contribute to your final score (both in context of the MBE and MEE). It is further prioritized by category so that you study the MEE topics expected to be repeated before you study any MEE topics not expected to be repeated. Put simply, the better you understand the MBE portion of this outline, the better you should score on the MBE and the more likely you will pass the exam.

One of the most important aspects of these outlines is the priorities. As I explain in detail below, the priorities enable examinees to study based on how much each category is expected to contribute to their score. If you are studying full time (8-9 hours per day for 6-7 days per week), then you should follow the study-time recommendations for each category (e.g. study 3x a week, 2x a week, 1x a week, 1x every two weeks, or 1x every month). If you are studying part-time (or you are using this material only to supplement your full-bar review), you should adjust the study-time proportionally. Studying this outline based on the assigned priorities should lead to the most efficient outcome on the upcoming UBE exam.

The UBE MASTER outline is a "dense" condensed outline. Due to the wide range of content that can be tested on the MBE and MEE, a denser outline is the more appropriate choice to study for upcoming exam issues. For example, a subscriber who scored a 174 on the MBE in NY and then a 177 on the MBE in NJ told me: *"… as far as the MBE is concerned, your outlines have been most useful since you emphasize the fine distinctions."* Furthermore, I determined that there are fewer "repeat" topics on the MEE as compared to the pre-UBE essays, necessitating the need for a broader/denser overall outline. In categorizing every single topic tested on the MEE since 1995, I determined that out of the 798 individual topics tested on the past 44 MEE exams, 519 of these topics were tested just once (65%) while 279 of these topics were tested more than once (35%). I then broadened the scope by looking at the ABC Categories (there are 358 ABC categories based on the NCBE subject matter outlines). Out of the 358 ABC categories, 247 categories have been tested on the MEE since 1995, meaning 111 ABC categories have not been tested yet. In regards to the 247 ABC categories that have been tested, 61 of the categories have been tested only once (25%), while 186 of the categories have been tested more than once (75%). Thus, one is much better able to 'predict' what ABC categories will appear rather than individual topics. Put simply, if my outline was based solely on previously tested MEE topics (which is what the pre-unified MASTER outline did), it would directly cover only about 35% of an upcoming MEE exam (based only on specific topics).

The UBE MASTER outline is designed for combined MBE and MEE study

The MBE and MEE are too intertwined to be studied for separately. For example, MBE issues are tested on the MEE and MEE issues are tested on the MBE (especially for Civil Procedure). Furthermore, the MBE subjects often represent the majority of MEE questions. For example, on the July 2016 UBE exam, 68% of an examinee's MEE score (which is 30% of the total UBE score) came from MBE subjects (meaning 70% of an examinee's total UBE score came from the 7 MBE subjects). On the Feb 2017 UBE exam, these percentages flip-flopped and 33% of an examinee's MEE score came from MBE subjects (meaning 60% of an examinee's total UBE score came from the 7 MBE subjects). I expect NCBE's testing of the MEE specific subjects on the MEE to wax

and wane from exam to exam – on some exams a majority of the MEE will be based on the MEE specific subjects whereas other MEE exams will consist mainly of MBE subjects. However, to handle such a variance between exams, a unified MBE/MEE outline is necessary. Thus, I merged all my individual outlines into a single outline – this UBE MASTER outline, and then appropriately prioritized it so that examinees study exactly how much each category is worth to their total UBE score. For each ABC category (169 MBE/MEE ABC categories and 189 MEE categories for a total of 358 different categories) contained in the 2017 NCBE Subject Matter outlines, I outline what I regard as the relevant black letter law (along with hypotheticals and examples) followed by the relevant MBE rules and MEE issues for that category, along with a link to any MEE MASTER topic summaries.

If you attempt to study for the MEE using a separate outline, you are likely to duplicate your efforts and inefficiently over-study certain areas. The UBE MASTER outline enables you to study for both the MBE and the MEE at the same time by taking into account how much each category is expected to contribute to both your MBE score AND your MEE score. Combined study is also facilitated by the embedded MBE rules and MEE issues. As such, you will not only be able to know the importance of each of the 358 testable ABC categories, but you will also see exactly how the categories have been tested each time on the MEE/MBE over the past 20+ years (based on the released MBE and MEE questions). This helps examinees construct their MBE/MEE knowledge by not only reading/studying the relevant black letter law, but also efficiently seeing how it has been tested by NCBE. Examinees that have difficulty retaining the wide range of testable content can focus on the HIGH to MEDIUM priority topics which should represent 50%-70% of their total UBE score.

The more efficiently you study for the MBE/MEE portions of the exam, the more time you will have to divert to MBE practice. Examinees that do well on the MBE generally pass. Examinees that fail the exam usually did not do well on the MBE (almost always below the median MBE for the administration). Doing well on the MBE is partly a function of time – if you don't have a lot of time to spend studying/practicing for it, it is hard to do well on it. While study for the other components of the exam can be "abbreviated" to some extent, MBE study really can't be given short-shrift, nor can MBE answers be "bluffed" as with the MEE. The main purpose of this outline and relying on the priorities is to allow for abbreviated study so examinees are able to divert that extra time to MBE studying/practice.

Categorized and prioritized MBE rules for the 1,600+ released NCBE MBE questions from 1991 to present are built into the UBE MASTER outline

To do well on the MBE, examinees should first become familiar with the law tested on past MBE questions. If you have the time, you should answer and review the 1,600+ released NCBE questions (I discuss this in depth on the MBE Study page). Reviewing these 1,600+ released NCBE questions takes about 150-200 hours (assuming 1.8 minutes to read each question and 5 minutes to review each answer explanation and write a rule). For examinees that don't have the time to do this (e.g. you are following your full bar review course syllabus and using their questions or you are studying part-time), I wrote rules for these 1,600+ questions (from the 1991 NCBE exams all the way up to the 2017 NCBE sample questions). A word document of these rules is 130 pages long. I also created a MBE Rules MP3 of these 1,600+ questions which is about 10 hours long. While it is always better to do the questions (to practice your reading comprehension and dealing with distractors), if you are short on time, this is an excellent alternative method to acquire the black letter law behind what NCBE has tested in the past in a very efficient way. More so, these rules are prioritized based on my priorities for the upcoming exam. Therefore, the rules are broken down into 36 ranked categories (representing the 36 MBE categories in the 2017 NCBE Subject Matter outlines) to enable examinees to study the most important categories (that will contribute the most to the examinee's MBE score) before studying the least important MBE categories. Thus, if you are very short on time, this is an excellent way to pick up the most important law in the least amount of time.

Please note that studying these rules is only one part of your overall MBE study. While the law behind past NCBE questions will give you insight into some of the legal concepts you can expect to see on the upcoming

MBE, they are not always representative. For example, out of the 1,600+ released NCBE questions, there are only two questions on Double Jeopardy (1/10 of 1% of the questions). In contrast, Double Jeopardy is tested fairly frequently on the current MBE (I expect it to represent about 1% of your total MBE score). Basically, the entire area of Constitutional Protection of Accused Persons is under-represented in the released NCBE questions (it is just 3% of the 1,600 NCBE questions, but expected to be 7% of your MBE score). To cite another example, the Rule of Perpetuities (from the Real Property subcategory of Special Problems) represents about 1% of the released NCBE questions, but on the upcoming exam, I expect this subcategory to be tested substantially less. Thus, if your MBE study is based only on the law behind the released NCBE MBE questions, you will be under-prepared for some areas and over-prepared for others. Accordingly, subscribers must study the black-letter law in the UBE MASTER outline in tandem with these MBE rules. By seeing the rules associated with the black letter law, it will make it easier to understand the law (remember, knowledge is constructed).

The MBE rules are listed in order of importance. The OPE 1-4 rules (listed first) are the most important for you to know. For example, if you go to the section of the outline for Torts: Negligence: Standard of Care, you will see rules for the 37 standard of care questions tested on the released MBE questions from 1991-2017 sorted in order of importance. Thus, if you are very limited on time (let's say because you put a lot of time into MBE practice), rather than studying all the rules separately, you can study them as you are studying the black letter law in the UBE MASTER outline, and you can further choose to focus on only the most important rules. As you answer MBE practice questions, you can also add your own rules to these sections to further enhance their understanding of each category. By maintaining all your rules in the UBE MASTER outline, you will have everything important contained in one single logical place.

Categorized and prioritized MEE issue statements for 400+ NCBE MEE issues from 2007 to present are built into the MBE sections of the UBE MASTER outline

In making the UBE MASTER outline (which involved examining every single MEE issue ever tested), I found that topics tested on the MEE that pertain to MBE subjects are also tested on the MBE. This makes sense, as NCBE probably uses MEE fact patterns to construct MBE questions and vice versa. This is especially true with the subject of Civil Procedure (which was added to the MBE in 2015) probably because NCBE needed to create a large pool of questions for the MBE so it likely went to the best source it had – prior MEE questions going back 44 MEE exams. As such, examinees should be looking at MEE issues when studying for the MBE and at MBE issues when studying for the MEE – this outline enables you to do so. You can also add notes in the boxes at the end of each category. This is a great place to put your MBE rules that pertain to that category or any MEE issues you encounter. Issue spotting is very important for the MEE, so you want to track this information to better help you on the exam.

Over 1,000+ hypotheticals and examples for the 7 MBE subjects are built into the UBE MASTER outline

Examinees learn by example. Accordingly, there are over 1,000 hypotheticals, tips and examples for the seven MBE subjects. The hypotheticals are detailed examples that are separately identified and appear in a yellow box with the prefix HYPO. The tips also appear in yellow boxes with the prefix TIP. The examples are less detailed parentheticals that start with (e.g.). Taking into account that the 1,600+ embedded MBE rules and 1,300+ MEE issues which also serve as examples, this UBE MASTER outline essentially contains almost 4,000 examples of the law to facilitate your understanding of it.

Drilling it down even further, I highlight what I regard as the topical areas of greater importance

For some categories, I highlight in yellow highlighting any topics or areas that I regard as more likely to be tested on the upcoming exam. This is based on my own personal opinion of which topics may be of greater importance (no statistical analysis is involved in this). I suggest you devote a little more time studying the highlighted areas as opposed to the non-highlighted areas, but you really should rely on the priorities contained in the outline topic headers more than the yellow highlighted areas.

Each MBE category is prioritized for the upcoming MBE

The UBE MASTER outline is sorted in order of subject priority. For example, an MBE subject that is not expected to contribute to your MEE score will appear lower in the outline than an MBE subject that is expected to contribute to your MEE score. Within these subjects, each ABC category is further prioritized. The MBE consists of 175 graded questions based on seven subjects (25 questions per subject). The MBE portion of the UBE MASTER outline consists of 169 MBE categories. However, while one would think that each category should reflect approximately one MBE question on the exam, they do not. In contrast, some categories will represent multiple MBE questions on the exam while other categories will represent no questions. Each category heading will tell you how many MBE questions you can expect on the exam based on the priorities of HIGH, MED and LOW. For example, if a category has an MBE-MEE priority of HIGH, this category is HIGH priority for both the MBE and MEE. If a category has an MBE-MEE priority of HIGH-MED, this category is HIGH priority for the MBE and MEDIUM priority for the MEE. A HIGH priority MBE category means that there will generally be 2 or more MBE questions from this category on the upcoming MBE exam. A MED priority MBE category means that there will generally be 1 or more MBE questions from this category. A LOW priority MBE category means there will be 0-1 MBE questions tested from this category on the upcoming MBE. Thus, if you are an examinee very limited on study time, you may wish to ignore the LOW priority MBE categories since those areas may or may not be tested on the upcoming MBE. Otherwise, you should simply study based on the study-time allocations.

Each MEE category is prioritized for the upcoming MEE

Everyone studies differently and certain study methods do not work for certain people. However, if you subscribed, you probably agree with the philosophy that you should study the MEE topics most likely to appear (and avoid the MEE topics least likely to appear) in order to increase your chances of passing the exam. In my analysis of bar exam essay topics over the past ten years, I have concluded that you cannot predict the essay topics for an upcoming exam – you can only assess topic priorities. The MASTER priorities use statistical analysis to determine which topics are *not likely* to appear on the upcoming exam. I strongly believe that this is the most efficient way an examinee can study for the bar exam. I put a good deal of time into determining the MASTER priorities for each exam – the priorities go far beyond simply looking at the frequency of appearance of a topic. For the MEE, a topic cannot appear on every exam and the MASTER priorities try to account for that. Since the entire MEE exam may consist of only 25 topics spread across 6 MEE questions, knowing just 4-5 more topics better than a typical examinee due to the MEE MASTER prioritizations can help you immensely on the exam.

Since examinees are taking a calculated risk by following these MEE priorities, I prepare a detailed post-exam analysis of MASTER for each administration it was used (16 administrations so far) to enable examinees (and myself) to better assess that risk. I also publish an even more detailed post-exam analysis on the subscription site after each exam. I know that many examinees rely on me to give them good information, so I regard it as bar review malpractice to not examine and report on the effectiveness of the information I provide:

http://seperac.com/bar/analysis.php

After I develop the statistical methodologies for the priorities, I test how these conditions would have worked on past exams. This "scenario testing" serves as a confirmation that the priorities are on point. If this was not the case, I would never release a prioritized list and tell examinees to rely on it. As stated above, I regard it as bar review malpractice to give advice to someone that requires them to take significant calculated risks in their studying unless it is strongly supported by the data. The priorities may sometimes seem illogical (i.e. a frequently appearing topic has a low priority or a rarely appearing topic has a high priority). However, every priority is based on a logical set of criteria to establish its priority. The determination of MASTER priorities is strictly formula based – I do not make any subjective assessments. Accordingly, the MASTER priorities are reactive – if the examiners modify how they select previously tested topics, the MASTER priorities change

accordingly. Often, I am not even aware of the current priority of a specific topic since my opinion plays no role in the determination of the priorities. Even though the bar examiners may "shake things up" occasionally, there still needs to be an overall consistency to essay topic selection. Put simply, the more inconsistent the examiners are with essay topic selection, the less likely the exam will determine an applicant's proficiency. For example, if a large number of obscure topics were tested, most examinees would do poorly on them, making it harder to distinguish applicants sufficiently to determine who is qualified versus unqualified.

Please keep in mind that the priorities in this UBE MASTER outline are specific to the JULY 2017 exam only. For example, if you test the priorities in the current MASTER against the immediately preceding bar exam, the priorities would be inaccurate. In the past, an average of 30% of the priorities change between each exam (in some cases, up to 50%). Thus, always rely on the topic's priority rather than the topic's frequency of appearance.

Again, MASTER doesn't predict what topics will appear on the next exam - it simply prioritizes the topics to indicate which topics are not likely to appear. Studying based on these time allocations will not ensure that you will fully understand each category - the purpose of these time allocations is to ensure that you do not over-study a particular category. However, by studying based on these priorities, I *strongly believe* you put yourself in the best position to pass through proportionate learning. Once I determine how much something is worth towards your total score, that is how much study-time it warrants – any more than that and you are being inefficient. Inefficiency in studying is sometimes unavoidable, but I go to a lot of effort to make your studying as efficient as possible.

This outline contains navigation links and other layout designs to facilitate more effective studying and review.

The SEPERAC UBE MASTER OUTLINE is essentially comprised of three separate word documents. To utilize the links in the SEPERAC UBE MASTER OUTLINE, you must download all three files and keep them in the same directory. Do not rename the files (make sure they don't get renamed by your device when you download them) or put them in different directories or the links won't work:

SEPERAC-J17 EXAM-UBE MASTER OUTLINE – A 495 page outline containing black letter law outlines for the 14 MBE/MEE subjects that is keyed to the 2017 NCBE Subject Matter outlines and broken down into 358 different categories. There are MBE/MEE priorities for each of the 358 testable categories. If the category has been tested on a released MBE or MEE exam, every associated MBE rule or MEE issue is reported after the black letter law section (based on 1,600+ MBE rules and 1,300+ MEE issues from the past 20+ years). The MEE issues section for each category also contains hyperlinks that will take you to the relevant MEE MASTER topic summaries for that category or to the MEE answer for that issue. This outline is fully up to date for the July 2017 exam, meaning it reflects the recent NCBE changes to Real Property topics and Evidence priorities.

SEPERAC-J17 EXAM-MEE MASTER-TOPIC SUMMARIES – A 200+ page outline containing prioritized summaries/synopses of the legal principles tested on the MEE exam since 1995. The topics are categorized based on the ABC subcategories contained in the NCBE Subject Matter outlines. The categories are sorted based on priority for the upcoming exam (highest priority first, then medium priority, then low priority). These generic paragraphs not only explain the relevant law, but can also be used to speed the writing process on the exam (even to bluff your way through parts of a question).

SEPERAC-J17 EXAM-MEE MASTER-RELEASED ANSWER COMPILATION – this Compilation outline (1,530 pages) is based on the last 45 MEE exams and contains 303 MEE questions. Each MEE question is followed by the NCBE Answer Analysis (and more recent questions also have the best examinee answers from other states). The MEE questions in this Compilation are grouped by priority (based on the SEPERAC MASTER priorities and other criteria) with the most important questions/answers first. The Compilation also identifies every single issue tested on every single essay – this can be used to check whether your issue-spotting is on point when you are outlining.

After this Introduction section, the next section is the Table of Contents. The Table of Contents is Hyper-Linked, meaning that if you hold down the CTRL key and click on a category, you will jump to that category. In addition, each of the categories tested on the MEE is hyper-linked to the SEPERAC MEE MASTER TOPIC SUMMARIES document while every MEE issue is hyper-linked to the SEPERAC MEE MASTER RELEASED ANSWER COMPILATION so that you can quickly see how the topic was answered in each exam where the topic appeared. You can also jump around the outline using the Word Navigation Pane (go to View, and then mark the check box to show the "Navigation Pane" or "Document Map"). Utilizing the hyperlinked Table of Contents or Microsoft Word's Navigation Pane, you can essentially jump to any subject, question or answer instantly. Furthermore, you can use the table of contents as a checklist of the issues related to each category.

For each category in the SEPERAC UBE MASTER OUTLINE, the first section is the black letter law section that examinees should strive to memorize. Each category header reports a priority of LOW, MED, or HIGH. The headers are color-coded based on their priority: BLUE=HIGH PRIORITY, GREEN=MEDIUM PRIORITY and ORANGE=LOW PRIORITY (you can read more about the prioritization rationale and methodology on the subscription site). Each category priority tells you how often the category should be studied. If you are studying full time and using this material as your primary source of study, you should follow these priorities religiously.

For the 169 MBE categories, the next section is the MBE rule section. For each released NCBE MBE question from 1991 to present that was tested on that category, there is an MBE rule I wrote that synopsizes the legal issue being tested in that question. For example, the heading for the rule section may appear as follows:

MBE Issues Tested on Jurisdiction – Federal SMJ

There are 1600+ MBE rules in the UBE MASTER outline encompassing the 1991, 1992, 1998 MBE exam books, the OPE 1-4 questions and other sample questions. If you are limited in MBE practice time, studying these rules is a great way to pick up the legal knowledge without having to go through the trouble of answering these questions. Since the older MBE questions are more straight-forward than the current MBE questions, you really don't need to answer these questions from a practice point of view, but you still want to know the laws tested because this is what NCBE regards as important.

Next, for the MBE/MEE categories that have been tested on the MEE, there is an MEE Issues Tested section. The header for the section appears as follow:

MEE Topic Summaries: Jurisdiction – Federal SMJ

These headings are hyperlinked. This means if you press CTRL and click on the link, you will be taken to the appropriate topic summary in the SEPERAC MEE MASTER TOPIC SUMMARIES document. You should click on these links if you are still have problems understanding a category (especially a HIGH priority category) and when you need to begin studying for the MEE. If you still don't understand something after reading the MEE MASTER topic summaries, you can read the issue links below the topic heading to see how the topic was tested since 1995 (and the outcome). If this still doesn't explain the topic to you, you can click on any of the issue links to take you to the exact part of the essay answer where the issue is explained. The hyperlinks to the MEE answers are available to give you insight into the analysis involved with each question (what facts are used and discussed).

For the MEE, issue spotting is paramount, so either read/study the MEE issues built into the UBE MASTER outline or use the MEE Quick Review outline (if you don't have the time for the full MEE questions and Answer Analyses or the full MP3s). In writing bar exam essays, knowing the black letter law is not enough – you also need to know how it is applied. The UBE MASTER outline lets you do a full review of the MEE quickly and efficiently by seeing the black letter law together with the tested issues. Furthermore, knowing how the issue

was tested helps immensely in issue spotting. It is this type of efficiency that enables examinees to accomplish essay study sooner and devote that saved time to the MBE.

The issues are color coded, so you know the result after you read the issue question. This color coding is designed to enable you to study more efficiently by seeing the answer in color. If the answer to the issue is in the Affirmative, the answer appears in **GREEN.** If the answer to the issue is in the Negative, the answer appears in **RED.** If the answer to the issue is neutral or cannot be answered definitively, the answer appears in **BLUE.** For example:

THE ANSWER TO THE ISSUE IS AFFIRMATIVE:
2015-FEB-Q5-P2: (35%) Are two corporations diverse for purposes of federal jurisdiction when they are incorporated and headquartered in different states but their main facilities are located in the same state, which is also the state of incorporation of one of the businesses? The District Court has diversity jurisdiction over MedForms's breach of contract claim because the amount in controversy exceeds $75,000 and MedForms and the company are citizens of different states.

THE ANSWER TO THE ISSUE IS NEGATIVE:
2015-FEB-Q5-P2: (35%) Are two corporations diverse for purposes of federal jurisdiction when they are incorporated and headquartered in different states but their main facilities are located in the same state, which is also the state of incorporation of one of the businesses? The District Court has diversity jurisdiction over MedForms's breach of contract claim because the amount in controversy exceeds $75,000 and MedForms and the company are citizens of different states.

NO ANSWER, NEUTRAL ANSWER:
2015-FEB-Q1-P1: (30%) Is the driver an independent contractor or an employee of the store? Although the store characterized the driver as an independent contractor, the store had the right to control his conduct and thus the driver was an employee of the store.

To go to the full MEE answer, simply press the CTRL key and click on the hyperlinked issue prefix (e.g. 2015-FEB-Q1-P1). There are hyper-links for all 1,271 issues tested on the MEE since 1995. Whether you click on a link (to read the essay answer in the SEPERAC MEE MASTER RELEASED ANSWER COMPILATION document) should depend on the point value of the issue. For example, if the point value of the issue is below 25% (this percentage appears after the hyperlinked issue prefix), then there is less of a need to look at the corresponding essay answer. However, the higher the point value of the topic, the more often you should review the issue answers by clicking on the issue links.

According to NCBE's MEE Instructions, on the MEE you must: "*[d]emonstrate your ability to reason and analyze. Each of your answers should show an understanding of the facts, a recognition of the issues included, a knowledge of the applicable principles of law, and the reasoning by which you arrive at your conclusions. The value of your answer depends not as much upon your conclusions as upon the presence and quality of the elements mentioned above.*" This unified UBE MASTER outline is specifically designed to help you with each of these elements of a good MEE answer.

Your ability to "*show an understanding of the facts*" will be developed through reading the MEE answers and seeing how the facts were discussed. You will be able to do this efficiently because hyperlinks to the specific MEE questions are built into the SEPERAC UBE MASTER OUTLINE. Through the MASTER priorities (contained in all three documents), you will learn these questions on a prioritized basis – the facts most likely to re-appear are designated as such. There is no guess-work involved here – start with the first essay and work your way down.

Your ability to "*[recognize] the issues*" will be developed by reading the issue links and understanding how the issues have been presented for each topic in past MEE questions. One of the significant benefits of UBE MASTER are the embedded MBE rules and MEE issue links. There is no other available bar exam resource that

takes every released MBE and MEE issue and groups the issues based on the legal principle of law being tested in the issue. This enables an examinee to quickly see how the issue was brought up in the past questions, so the examinee will be prepared to identify the issue in future questions.

Your ability to demonstrate a "*knowledge of the applicable principles of law*" will be developed by studying UBE MASTER based on priority, thereby being very familiar with the principles of law most likely to appear and least familiar with the principles of law least likely to appear. In addition, the MEE MASTER answer summaries are more comprehensive than just the black letter law. Where possible, I also explain the purpose of the law. As such, when you write your response, you can illustrate to the grader that you not only know the black letter law, but that you also understand it.

Finally, you will "*[d]emonstrate your ability to reason and analyze*" by reviewing the NCBE Answer Analyses which do an excellent job of showing how to analyze an MEE essay. In addition, the best examinee answers from other states serve as good examples of proper reasoning and analysis. By analyzing representative good answers, examinees will learn to write passing MEE essays by example. These best examinee answers provide insight as to what type of writing and how much knowledge and analysis is required for an above average score that is not at the level of the released NCBE Answer Analyses. I regard the process of reviewing the past MEE essays (and their associated issues) as very important. Much like the recently released MBE questions (OPE 1-4) reflect the current MBE, the recently released MEE questions reflect the current MEE. Since the cost to purchase the 2012-2017 MEEs from NCBE is $150, unless an examinee obtains these questions from their bar review, a number of examinees will be unfamiliar with them, giving you an advantage on the MEE. Reading, listening to, outlining, and answering these MEE essays will teach you how to compose an MEE answer that the bar examiners are looking for.

This outline is editable to facilitate more effective studying and review.

I release the UBE MASTER outline as an editable word document to allow examinees to supplement it. For example, you can add your own pieces of law, highlight areas you need to study better, or even add your own MBE rules in the MBE rule section for each ABC category. Accordingly, you may decide to copy your MBE rules into this outline (by adding them to the existing rules) rather than using a separate MBE Rules outline. If you plan to edit the documents, I suggest that you "Track Changes" in the documents so that you can see easily identify your additions and changes.

As subscriber, you are agreeing to the [Purchase Agreement]. Therefore, you cannot share/sell/disseminate the subscription site materials or advice without my written consent. I sincerely believe that if you use these materials as directed, you will improve your odds of passing the bar exam. However, the more examinees that use these materials, the lower everyone's chances of passing. By keeping subscriptions limited to a small percentage of examinees, there is also less incentive for the bar examiners to purposefully change the exam to counter topic priorities when only a small number of examinees are relying on them, especially when deliberately changing their exam methodology may have unintended consequences on the majority of examinees who are unaware of the priorities (e.g. adding more low priority topics could cause examinees who normally would pass to fail).

If an examinee shares the material or information on this subscription site, they are doing it to their detriment. Examinees must recognize that all the information on the subscription site is designed to increase your probability of passing the exam, so sharing that information with anyone decreases that probability. Thanks to the internet, sharing this material/information with just one person can have the unintended effect of it being subsequently shared with hundreds of examinees who are all competing for the same license. Examinees must keep in mind that licensure exams act as a form of economic protectionism since a bar exam "passing score" arbitrarily sets a limit on the number of attorneys licensed in a jurisdiction. An examinee that scores a 264 on the New York UBE exam is probably just as qualified to practice law as an examinee who scores a 266, but only one of these examinees will be admitted to the bar. Put simply, if the seven current justices of the New York

Court of Appeals were the only persons to sit for the upcoming New York UBE exam, at least two of the justices would fail the exam based on the cut score (and probably more due to a poor MBE showing).

I place a good deal of trust in subscribers by making these documents available in an easily downloadable and editable format because this facilitates your outlining and studying. I do this to enable examinees to study as efficiently as possible, even if it increases the risk it can be easily shared. I appreciate that subscribers respect this and do not share the information. In return, I will do my part in working up until the exam to provide advice and resources that I believe will benefit subscribers taking the upcoming exam. Accordingly, if you ever find an unauthorized use of these materials, please email me at joe@seperac.com. If you purchased a copy of my materials from another source, please include it in the email.

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POST-EXAM

There is a post-exam questionnaire for subscribers:
http://seperac.com/postexamform.php

If you take the exam and think you may not have passed, filling out this form immediately after you take the exam (while the information is still fresh in your mind) can help you later. For example, using this information, I track the key details of your attempt, so if you later find that you failed the exam, I will try to match your responses/statistics to whoever previously submitted the most comparable details (and later passed) to give you their advice on what worked for them. This input from examinees also gives me a better understanding of the effectiveness of my advice/priorities along with information on the exam itself.
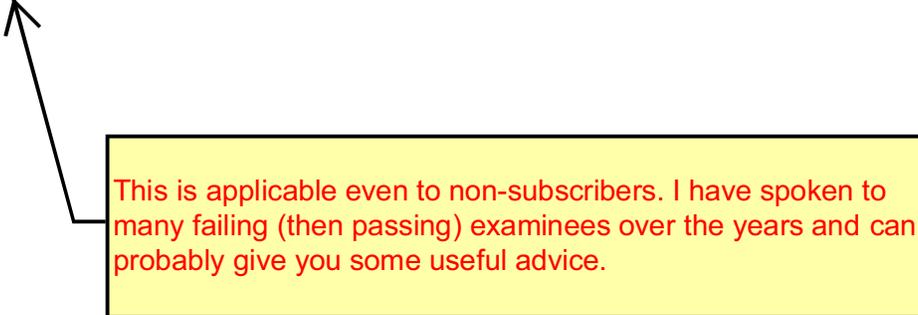
This is applicable even to non-subscribers. I have spoken to many failing (then passing) examinees over the years and can probably give you some useful advice.

CrimLaw: Cat V: Const Protections of Ds (B. Confessions/Self-incrimination privilege)
MBE-MEE PRIORITY: HIGH-MED – REVIEW: TWICE A WEEK

1. **Fifth Amendment Privilege Against Compelled Self-Incriminatio**
   a. Who and When:
      (i) Anybody can assert the privilege
      (ii) May be asserted in any kind of proceeding
         (a) If not assert the very first time in a civil/congressional/a
            subsequent criminal proceeding
   b. Scope of Protection – *testimonial* but NOT physical evidence. B
      custodial interrogation.
   c. Prohibition against burdens on assertion of privilege – *unconstiti*
      D's failure to testify or silence after Miranda warnings
      (i) BUT, prosecutor is permitted to point to an out-of-custody s
         evidence of guilt.
   d. Elimination of Privilege
      (i) *Grant of Immunity* – witness may be compelled to testify if
         against self-incrimination) b/c there is no threat of the witne
         (a) Two types:
            (1) *Transactional immunity* – immunizes grand jury w
               about which he is questioned and testifies (i.e. bars
               in her testimony)
               [i]. Witness cannot demand transactional immunit
                  Use & Derivative Use Immunity
            (2) *Use/Derivative Use immunity* – prohibits the government from directly or derivatively using the grand jury
               testimony against the witness
               [i]. this immunity is used by statute in fed courts
               [ii]. scope is narrower than *transactional immunity* b/c the witness may still be prosecuted.
               [iii]. BUT, the witness's grand jury testimony and any information derived from that testimony cannot be
                  used against the witness in that criminal prosecution.
         (b) NOTE: prosecutor may use prior evidence derived from independent source
      (ii) *No possibility of Incrimination* (e.g. statute of limitation)
   e. *Waiver* – D by taking the witness stand, waives his Fifth Amendment privilege
2. **Miranda Warnings**
   a. In General: Violation of Fifth Amendment privilege against compelled self-incrimination
   b. Constitutional Rights:
      (i) Right to remain silent
      (ii) Warned that anything said can be used against them
      (iii) Right to presence of attorney
      (iv) If can't afford attorney, one will be appointed
   c. Important Factors
      (i) *Custody* Requirement – Two steps: (1) under the totality of the circu
         the circumstances would feel that he was free to decline the officers'
         interrogation and leave; and (2) whether the relevant environment pr
         questioning in a police station.
         (a) Interrogations during routine traffic stops, probation interviews
            custodial.
         (b) The D's young age and/or inexperience are NOT RELEVANT (
            have been objectively apparent to a reasonable officer.
      (ii) *Interrogation* Requirement – any words or conduct by the police that they know or should know they would likely
         elicit a damaging statement (mere asking of questions are not interrogation)
         (a) Spontaneous admissions are OK *i.e. "blurts out"*
   d. Waiver of Miranda Rights
      (i) *Knowingly, voluntary, intelligent* – look to the totality of the circumstances
      (ii) Fact specific question – no waiver from mere silence or shoulder shrugging (e.g. if D does nothing and is silent for
         hours and then answers, no waiver)

(iii) If suspect under custodial interrogation has NOT YE[T] statement about invoking rights, interrogators' future questions should be confined to verifying whether the individual meant to ask for a lawyer

HYPO: If Miranda warnings given to D and D responds that "he may want his attorney", the police must clarify this ambiguous waiver before continuing with the interrogation or else it is a Miranda violation.

    e.   Miranda Warnings after Questioning
    (i)   If police obtain confession from D before Miranda Warning, then give Warning and obtain subsequent confession, the subsequent confession is INADMISSIBLE if "question first, warn later" was intentional
    (ii) If original unwarned questioning was unplanned and the failure to give Miranda warnings appears inadvertent, the subsequent confession is ADMISSIBLE
    –   *Nontestimonial fruits* of an unwarned confession will be s[...]
    f.   Impeachment purposes – confession taken in violation of *Mir[...]* if he testified at trial
    –   NOTE: as long as *Miranda* warnings have been given & adve[...] voluntary statements are admissible EVEN IF (i) *the police lie[...] fail to inform D that his lawyer is attempting to see him.*

MBE Issues Tested on Const Protections of Ds – Confessions/Self-incrimination privilege

• If a witness is granted immunity from prosecution, he or she may be compelled to testify (even about his or her own crimes) b/c there is no **5th amendment right against self-incrimination** once immunity is granted, even if the compelling authority only grants use and derivative use immunity (i.e. no testimony given can be used directly against him or use to derive evidence against him) rather than the broader transactional immunity (which prevents any prosecution for the transaction about which a witness will testify) b/c use and derivative use immunity is coextensive with the privilege and is sufficient protection to require a witness to testify over 5th amendment objections (e.g. if a witness refuses to testify by exercising 5th Amend right against self-incrimination when he is summoned before a legal proceeding such as a grand jury proceeding or Congressional hearing, in order to compel testimony, the government doesn't have to grant complete immunity from prosecution, i.e. "transactional immunity," but must at least grant "use immunity," which excludes the witness's testimony or its fruits from being used against him in future prosecutions). (OP4-4)

• When a grand jury witness invokes the **privilege against self-incrimination**, the prosecutor may seek an immunity order from the judge overseeing the grand jury granting the witness immunity to compel an answer – the U.S. Constitution requires that a grand jury witness receive only derivative use immunity, which simply prohibits the government from directly or derivatively using the grand jury testimony against the witness (e.g. if a grand jury witness raises her 5th amendment privilege against self-incrimination and refuses to answer a question concerning her whereabouts on the day of a crime, a prosecutor can compel the witness to testify by granting her a use or derivative-use immunity which bars the use of her testimony, or any evidence derived from it, against her, but he need not offer her a more expansive transactional immunity which bars any future prosecution for any crime she might disclose in her testimony). (OP4-21)

• Whether a person is "in custody" (meaning police could not properly interrogate the man without first providing him with **Miranda warnings**) is an objective test assessed in terms of how a reasonable person in the suspect's shoes would perceive his or her freedom to leave – if the police convey that the accused [...] (e.g. if police execute a valid search warrant at 3 A.M. by enter[ing...] man on a particular robbery after yelling, "We've got you now[...] he was under police custody, because he [h]ad been deprived of [...] officers had questioned him in his own home, and that he was [...]

• Compelling a D to say the words spoken by the bank robber [...] the privilege against self-incrimination extends only to compel[...]

• *Miranda* is meant to protect against interrogation in an **inher[...]** who looks like a robbery suspect is stopped by police on the st[...] not a violation of the 4th amendment or Miranda). (OP2-31)

• A *grand jury* can only **compel** the production of a suspect's [...] law (e.g. **use and derivative use immunity** for any evidence d[...] the party's immunized testimony). (OP2-97)

• An incriminating statement that is volunteered by a defendan[t...] (J98-67)

• Incriminating statements made by a defendant to police after [...] defendant's family if he doesn't talk are not voluntary and there[...]

• A waiver of Miranda rights did not depend upon the nature o[...]

incrimination. (91)

• After *Miranda* warnings, If D says he'll talk but won't put anyth[...] admissible. (91)

MEE Topic Summaries: Const Protections of Ds – Confessions/Se[...]

2016-JUL-Q2-P1: (25%) Did the admission of the officer's test[...] defendant's Miranda rights? Was this evidence inadmissible hearsay? **The officer's testimony that the defendant started crying did not violate the defendant's Miranda rights because crying is not testimonial/communicative evidence and the defendant was not in custody when he burst into tears. This testimony is not hearsay because crying is not a statement.**

2016-JUL-Q2-P4: (25%) Did the admission of the officer's testimony recounting the defendant's statement "I have some information that can really help you with this case" violate the defendant's Miranda rights? Was this evidence inadmissible hearsay? **The admission of the officer's testimony recounting the defendant's statement "I have some information that can really help you with this case" did not violate the defendant's Miranda rights because the defendant initiated communication with the officer. This testimony also is not hearsay because it is an opposing-party statement.**

2014-JUL-Q1-P2: (30%) Under Miranda, did the suspect effectively invoke his right to counsel when he said, "I think I want my lawyer here before I talk to you"? **The suspect did not effectively invoke his right to counsel under Miranda because his statement was not unambiguous.**

2014-JUL-Q1-P3: (35%) Was the suspect's waiver of his right to remain silent under Miranda valid? **The suspect's waiver of his Miranda rights was knowing, intelligent, and voluntary despite the fact that he was never told of the lawyer's presence in the jail or of the lawyer's demands.**

2011-JUL-Q2-P3: (15%) Did Officer's questioning of Suspect violate Suspect's rights under Miranda? **Officer violated Suspect's Miranda rights when Officer arrested Suspect and interrogated him without providing Miranda warnings and obtaining a valid waiver.**

2011-JUL-Q2-P4: (25%) Did Officer's questioning of Suspect make Detective's subsequent interrogation of Suspect unconstitutional? **Officer's Miranda violation did not taint Detective's subsequent interrogation.**

2008-FEB-Q8-P2: (37%) Should Student's statements be suppressed because the police failed to read him his Miranda rights when they questioned him in the manager's office? **The police were probably not required to read Student the Miranda warnings because he was probably not in custody until they placed him under arrest.**

2008-FEB-Q8-P3: (32%) Should Student's confession be suppressed because it was involuntary? **Based on the totality of the circumstances, Student's confession was probably voluntary.**

(C. Lineups & [...] the forms of identification)
[...]LOW – REVIE[...]

[...]*unsel*
[...]ive rise to Right o[...]
[...]e-charge lineups [...]
[...]*ess*
[...]suggestive and is [...]
[...] whether photogr[...]
[...]witness to view th[...]
[...]layed. Showing o[...]
[...]e display depictin[...]

[...] the time of the cr[...]