

UNDERSTANDING MCQ's – EPISODE 5

SLIDE 1.

Hello, this is Professor Dodge. Welcome to Episode 5 of “Understanding MCQ's.” Understanding MCQ's is a series of six short videos designed to help you master Purdue Global Law School's multiple-choice questions.

If you haven't viewed the first four Episodes, please do so before viewing this Episode, as the complexity of the multiple-choice questions in this Episode builds on the basics that we covered in the earlier Episodes.

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As with the first four Episodes, I went back and pulled the statistics from the resource quizzes – again in Module 4 – of Contracts I and Torts I. We're focusing again on problems that arose in one of the hardest questions from those quizzes; that is, one of the questions that (based on student performance) caused problems for largest number of people. To be specific, only 57% of students got it right.

Note that for Conduct Code purposes this is not an actual question from a Resource Quiz in the curriculum (which means that you can feel free to discuss the content in this video with your colleagues). Rather this is a new multiple-choice question, designed to present the same difficulties as one of the hardest multiple-choice questions from one of the fourth module resource quizzes.

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Before we get into our question, let's look at some words and the clues that they send us for understanding multiple-choice questions. As always, there are subtleties and distinctions that drive the meaning of facts and that will help you to understand what an answer choice is really saying. Based on student performance, the distinction that is causing the most trouble is knowing when something is required and knowing when something is optional, when a statement is absolute and when it is non-absolute.

We touched on this to some extent in Episode 3, when we looked at “unless.” You will recall that when you see an “unless” in answer choice, you are looking at an absolute statement. That is, we read “unless” as if we were translating it from another language. For us, “unless” means “**but there is one (and only one) situation when it would not be the correct answer, if.**” Now, looking at the context of this answer choice from Episode 3, here's how we would put it all together “No is the correct answer; but there is one (and only one) situation when it would not be the correct answer, if Defendant intended to substantially interfere with Plaintiff's possession.”

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The thing is, “unless” isn't our only absolute statement. In fact, there are several words that make absolute statements; we're not going to look at the total universe, just some of the more common ones, but once you get this idea down, you'll be able to spot it and deal with it however it arises.

The two other words that you are most likely to run into that are ways of making absolute statements are “shall” and “must.” When you see an absolute statement like this, the only way that the answer choice can be correct (and thereby a candidate for best answer) is if the absolute statement, the thing that shall be, the thing that must be, is the only way that it can happen.

So, if we had an answer choice like this; “Having accepted the delegation to perform under the contract from C, B must arrange for the completion of the performance delegated.” The only way that it could be correct (and thereby a candidate for best answer) would be if this is the only thing that B can do. If B has other options, if B could do something else and still meet the responsibilities delegated, then this answer choice is incorrect and cannot be a best answer.

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The opposite number of the absolute statement is the non-absolute statement, where, instead of claiming that there is only one way to do something, the answer choice is simply saying that it is offering an option, one possible way of doing something, or something that could be done but does not have to be done. The most common signals for non-absolute statements are “may,” “can,” and could.”

So, if we had an answer choice like this; “B may recover the reasonable value of the work performed by C.” The only way that it could be correct (and thereby a candidate for best answer) would be if there are other things that B can do. If B can only do this, if this is the only option B has, then this answer choice is incorrect and cannot be a best answer. Of course, if B has other options, maybe something completely different, maybe this but with something extra, then this would be correct (and thereby a candidate for best answer).

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One more signal that is specifically designed to trip you up, “may only.” While this is making an absolute statement, that this is the only way that something can be done, that there is no other choice, the fact that it includes “may” can lead you to unconsciously treating it as if it was not absolute, if you are moving too quickly and not really comprehending what you are reading.

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Okay, now let’s see how these differing signals work in the context of a Contracts question, one that includes signals for both absolute statements and non-absolute statements. As an aside, while it is not always the case, most commonly multiple-choice answer choice sets will include mixed signals like this.

With this question, “Dee makes an offer for a unilateral contract to Ed. When Ed begins the requested performance to accept the offer, under the majority rule Dee:” let’s start first by looking at answer choices A. and C., our “can” choices.

When we read A. in context, it’s saying that “under the majority rule D can revoke the offer at any time prior to Ed completing performance.” That is, under the majority rule, one of the options available to Dee is revoking the offer at any time prior to Ed completing performance. Although Dee was free to revoke her offer before Ed started performing, once performance has begun, under the majority rule this option is no longer available to Dee. Which means that, even

though there could be several viable options for Dee, this is not one of them, and we can eliminate this as a possible best answer.

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On to C. Read in context, this says that “under the majority rule, Dee can be required to grant an option to hold the offer open, if the value of the contract exceeds \$25,000.” Is this one of the options available to Dee? Can Dee be forced to grant an option under the majority rule, if the dollar value exceeds \$25,000? No. While the option theory of keeping the offer open is a conceptual mechanism for keeping an offer open, even in jurisdictions that follow it, it is not tied to a dollar threshold. Which means that, even though this kind of sounds right, like it could be one of the options available, it in fact is a misstatement of law. Meaning that we can eliminate this as a possible best answer.

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Now to the absolute statements. The ones that say this is what Dee has to do, and this is the only thing that Dee can do. We'll start with B. Read in context, B. says that “under the majority rule, Dee must hold the offer open to allow Ed to complete performance.” Is that right? Is this the only option Dee has under the majority rule? Yes. Under the majority rule, Dee has to hold the offer open once the performance requested for acceptance has begun. So B. is a correct answer.

Hold on, look at D. D. says basically the same thing, that “under the majority rule, Dee must hold the offer open for a reasonable amount of time to allow Ed to complete performance.” Is that right? Is this the only option Dee has under the majority rule? Yes. Under the majority rule, Dee has to hold the offer open once the performance requested for acceptance has begun. D. is also a correct answer.

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By my count, we've got two correct answers here. How do we figure out which is the best answer? By looking at what's different. And what's different is the phrase “for a reasonable amount of time.” D. has it, B. does not.

Now, looking at the two articulations of the correct rule, is one of them a more accurate or more detailed statement of the rule? Yes. D., which includes the added detail about the length of time that the offer must be held open – “for a reasonable amount of time” – is a more accurate, more detailed statement of the correct rule in comparison with the articulation of the rule in B. which does not have that detail. In a competition with B., this makes D. the best answer.

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That's all for our fifth episode of Understanding MCQ's. Look for Episode 6, where we'll talk more about how to choose the best answer out of two or more correct answers, and we'll look at the dynamic between the general and the specific. Thanks for listening!