

June 2016

ESSAY QUESTIONS



California First-Year Law Students' Examination

Answer all 4 questions.

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete, but you should not volunteer information or discuss legal doctrines that are not pertinent to the solution of the problem.

You should answer according to legal theories and principles of general application.

QUESTION 1

Tenant rents space in a Cityville office building from Landlord. Six months ago, a fire broke out at night in the office building and Tenant, who was working late, was overcome by smoke in the building.

A responding firefighter found Tenant unconscious and, while carrying Tenant out of the building, dropped him, breaking Tenant's leg. The building and all its contents were destroyed.

Cityville fire marshal's investigative report stated: "Fire apparently originated in basement. Apparent cause: faulty wiring. Accumulation of old newspapers in basement was a principal source of fuel, and probably resulted in rapid spread of fire to remainder of building."

The old newspapers mentioned in the fire marshal's report had been left by a previous tenant three years ago. Some of the basement hallways were nearly impassable. Landlord was aware of this, but hadn't gotten around to cleaning them up.

One of Cityville's fire safety ordinances provides: "Any person who permits any article to remain in a stairway or hallway so as to impede entering or leaving the building, or any area within it, shall be punished by a fine of not more than five hundred dollars."

1. On what theory or theories might Tenant reasonably sue Landlord? Discuss.
2. What types of damages, if any, might Tenant recover from Landlord? Discuss.

QUESTION 2

Sara is a doctor who collects, buys, sells, and trades baseball cards for profit, averaging 15 transactions a week. She is a recognized expert in the 1939-50 era.

Bill operates a store that regularly sells baseball cards. Bill claims he phoned Sara and offered to buy a 1939 Denny Wilson card for \$550, and that Sara accepted.

Immediately after their phone conversation, Bill sent Sara an unsigned, typed letter confirming the contract, and identifying the parties, the Denny Wilson card and the price. Bill's letter had a letterhead identifying the name of his business, *Beyer's Baseball Cards and Collectibles*. The letter included the following term: "Seller shall provide a certificate of authenticity from the Baseball Trading Cards Association." Certificates of authenticity cost \$100 and significantly increase a card's value. Sara's card was not certified, and the parties had not discussed this before.

Sara received and read the letter but did not respond to it. When Bill called later, Sara said she had sold the card to another party for \$575. Bill sued Sara for breach of contract, seeking \$250 in damages (based on \$800 as the fair market value of a certified card).

Sara denies the existence of a contract, alleging that Bill only asked, "Would you consider taking \$550" for the card, and that she replied, "Okay, send me something in writing." Alternatively, she claims that the phone agreement was unenforceable and that the so-called letter of confirmation had no legal effect. She also contests Bill's calculation of damages.

1. Can Bill prevail in his lawsuit? Discuss.
2. If so, what damages, if any, is Bill entitled to recover? Discuss.

QUESTION 3

Narcotics officers, Alice and Ben, were assigned to conduct routine surveillance at a bus station. They were assisted by Hound, a trained narcotics-detection dog.

One evening, after all the passengers on a bus had exited the vehicle for a scheduled rest stop, Alice lawfully boarded the bus, while Ben and Hound waited outside. Alice walked down the center aisle of the bus, looking at the luggage that passengers had placed in the overhead storage space. When she came to David's seat, she caught sight of his soft-sided suitcase above his seat. Standing on his seat, she leaned forward and sniffed the suitcase, but could not detect any odor. She then pressed the outside of the suitcase lightly with her hands, forcing air from the interior. She sniffed the escaping air and, based upon her training and experience, recognized the odor of marijuana.

Shortly thereafter, the passengers began reboarding the bus. As they did so, Ben had Hound sniff each one without touching the individual. When Hound sniffed David, Hound responded, indicating the presence of narcotics on David's person.

Did Alice or Ben conduct a "search" within the meaning of the Fourth Amendment to the United States Constitution? Discuss.

QUESTION 4

Cindy and Shelly Smith, 35-year-old identical twins, look exactly alike.

Cindy was a straight-A student in high school, went to college, and then to law school. She is presently campaigning for election to the State Senate.

Shelly got into the wrong crowd in high school, became addicted to cocaine, and moved to Europe without graduating from high school.

Cindy and Shelly have not spoken for years, and very few people know that Cindy has a twin.

Debbie, a high school classmate of Cindy and Shelly, dislikes Cindy and does not want Cindy to win her election. Debbie obtained an old photograph of Shelly snorting a line of cocaine and sent it to Newspaper the day before the election, with an anonymous note that read, "Ms. Smith is a cokehead." The photograph was very clear and looked exactly like Cindy.

Newspaper, unaware that Cindy had an identical twin sister, published the photograph of Shelly the same day, with a caption that read, "Cokehead for State Senate?" Newspaper reported that it had received the photograph of "Cindy Smith" anonymously earlier that day. Cindy was very distressed about Newspaper's publication and subsequently lost the election.

Thereafter, Cindy filed defamation claims against both Debbie and Newspaper.

1. What is the likely outcome of Cindy's defamation claim against Debbie? Discuss.
2. What is the likely outcome of Cindy's defamation claim against Newspaper? Discuss.