

QUESTION NO. 1 (Page 1 of 1)

THIS IS A 30-MINUTE QUESTION CARRYING MAXIMUM GRADE POINTS OF 100.

Rob is in your office for advice on papers served on him. Rob hands you a summons showing R & M, LLC, has been named as the defendant in a land damage case. Rob hands you a Secretary of State certificate for R & M, Limited Liability Company, and an Operating Agreement for R & M, LLC. It is true that Rob and Mark caused substantial land damage through pure negligence and it is not the first time that happened.

Rob believes he will have to cash in his personal investments to pay damages in the lawsuit. Rob is unhappy with Mark because Mark causes unnecessary damages. Rob wants to get rid of R & M, LLC and do future business in his own name, or have a partnership or maybe a limited partnership with his Uncle.

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Questions:

- A. Does Rob have personal liability in the land damage lawsuit against R & M, LLC? Explain your answer.
- B. What is your advice to Rob about doing business in the forms he has mentioned? What are the personal protections available for each of these forms? Explain your answer.
- C. What business forms could you recommend to Rob? For each form that you recommend, explain the protections available and the requirements to create that business form.

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THIS IS A 30-MINUTE QUESTION CARRYING MAXIMUM GRADE POINTS OF 100.

George Abernathy is a 21 year old senior at the University of Oklahoma. He is seeking a degree in secondary education. He desires to teach high school science and be a football coach.

On November 16, 2009, Mr. Abernathy was stopped by a Midwest City police officer for swerving left of center. When asked by the police officer if he had been drinking that night, Mr. Abernathy admitted that he had and also volunteered that he had more than two (2) shots of tequila and several beers at a friend's apartment earlier in the day. Mr. Abernathy submitted to a breathalyzer test. His test results were 0.15 breath alcohol content. Mr. Abernathy was placed under arrest and charged with a misdemeanor – driving under the influence of alcohol. Mr. Abernathy has no previous criminal record and has never been represented by an attorney.

At his initial appearance before the District Court, Mr. Abernathy pled not guilty and was released from jail on his own reconnaissance (OR bond). His next scheduled hearing was set for December 1, 2009. At that hearing, Mr. Abernathy would have to advise the Court whether he had hired an attorney and, if so, whether his attorney had negotiated a plea agreement with the District Attorney's office.

On the advice of a friend, Mr. Abernathy contacted a local criminal lawyer, Harold Smith, to represent him. After a brief consultation, Mr. Smith advised he would have to charge a non-refundable retainer of \$7,500 due to the seriousness of the charge. Mr. Smith said he would obtain a deferred sentence with no further jail time for Mr. Abernathy so long as Mr. Abernathy

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asked no questions as to how this would occur. Mr. Smith also required Mr. Abernathy to pay an additional \$873 for fines and costs. There was no written fee agreement. Mr. Smith told Mr. Abernathy that he did not need to appear for the December 1st hearing date because he would take care of the matter. Mr. Smith further advised he would contact Mr. Abernathy some time after the hearing and provide him an update on the case.

Beginning shortly after the December 1st hearing, Mr. Abernathy attempted to contact Mr. Smith on several occasions to obtain a status report on the case, but to no avail. On January 15, 2010, Mr. Abernathy learned that a bench warrant had been issued for his arrest due to his attorney's failure to appear on his behalf at the December 1st hearing. Mr. Abernathy contacted Mr. Smith's law office and finally spoke with him. Mr. Smith said he failed to make the December 1st hearing date because it was inadvertently not placed on his calendar. When Mr. Abernathy attempted to terminate Mr. Smith's representation and to obtain a refund of the monies paid, Mr. Smith advised that all monies paid were non-refundable, but agreed Mr. Abernathy would not have to pay any balance owed.

What should Mr. Abernathy do? Has Mr. Smith been guilty of any ethical misconduct?
If so, what? Explain your answer.

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Larry signed up his small squad of employees for a profit sharing plan. Almost every year, he put a chunk of leftover cash into the plan and it was divided between him and each of his employees.

Larry hired a company, the Sharing Profits Company, LLC, to administer the plan. The company's contract provided that the company would get \$400 per quarter for "setting up and implementing the plan," "managing the investment," "reporting to the investors/employees," "filing necessary tax documents," and other "routine work".

The contract also provided that Larry and his business would be responsible, at the rate of \$25 per hour, for any "extraordinary services" provided by the company, such as company activity "ordered by a court," procedures "requested by an employee," "depositions," and any effort made as "part of an IRS audit." There was no definition of extraordinary services other than the examples given, but the contract stated that the list "is not meant to be all-inclusive."

After four years of administering the plan, the Sharing Profits Company, LLC, told Larry that it felt that changes in the law mandated a "rewriting" of the plan. The company said it would take 25-30 hours and would cost Larry and his business an extra \$700 or so. The company said the plan, if not rewritten, would become "unqualified," and the deferred tax benefits of the plan would be lost.

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Larry resisted and told the company that he had never agreed that he or his business would pay more whenever the company unilaterally decided it needed more money.

The company says that it needs \$500 to start the rewrite and that, if it does not receive it within two weeks, the company would resign as plan administrator and leave Larry and his employees on their own.

Larry comes to you for legal advice and asks the following questions:

- A. If Larry writes the company a check for the rewrite, can he still contest the charges? Explain your answer. (25 points)
- B. Identify each of the reasons why Larry should not have to pay for the rewrite? Explain your answer. (50 points)
- C. Assume for this part only that Larry does not pay for the rewrite and that the company resigns as administrator. What claims can Larry file against the company? Explain your answer. (25 points)

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THIS IS A 30-MINUTE QUESTION CARRYING MAXIMUM GRADE POINTS OF 100.

Tim Barton, the former Chief Financial Officer at Artex Corp., filed suit against Artex and its President, Sid Swank, in the District Court of Tulsa County, Oklahoma. Plaintiff Barton claimed that he had been wrongfully terminated as Chief Financial Officer of Artex Corp. Artex and Swank answered and counterclaimed for damages “in excess of \$10,000”. In their counterclaims they alleged that Plaintiff Barton (i) had misappropriated funds via false expense reports, and (ii) had used some of the misappropriated funds in connection with an affair with Swank’s wife. In fact, these allegations by defendants were completely untrue factually, because plaintiff had not taken or misused company funds and he absolutely never had any relationship with Swank’s wife. During discovery, Plaintiff Barton established that investigative papers and electronic files that defendants had maintained (in Swank’s office and on his company computer) were “lost” or had been deleted within 30 days after the filing of the case.

Plaintiff amended his lawsuit against defendants to assert claims of libel, abuse of process, and spoliation of evidence.

Questions:

- A. Will Plaintiff recover on his claim for libel? Explain your answer.
- B. Will Plaintiff recover on his claim of abuse of process? Explain your answer.
- C. Will Plaintiff recover on his claim for spoliation of evidence? Explain your answer.

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Jane was an employee of the Oklahoma Department of Human Services (DHS) and lived in Lincoln County, Oklahoma. In November 2005, she filed an action with the Oklahoma Merit Protection Commission (MPC) alleging that DHS had changed her job duties in retaliation for her having filed internal grievances and having contacted a member of the Oklahoma Legislature about those grievances.

After review, the MPC denied her petition. Jane's petition for reconsideration was denied by the MPC on January 20, 2006.

On March 1, 2006, Jane then filed her "Petition for an Administrative Appeal" in the Oklahoma County district court pursuant to the Oklahoma Administrative Procedures Act. Jane asked the district court to set aside the MPC decision and remand the case to MPC for the purpose of holding an administrative hearing on the alleged retaliation. Jane's petition for appeal did not name MPC as a party defendant in its caption. However, in the body of the petition, Jane did name MPC as a party under Subsection I, "Parties, Jurisdiction and Venue." Relief from MPC's decision was clearly requested in the petition.

MPC was not served with summons of the Petition for Appeal and there is no record of a certificate of service on MPC. MPC otherwise received notice of the Petition for Appeal and filed its "Certification of Record" in the Oklahoma County district court case. However, DHS

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filed a Motion to Dismiss the Petition for Appeal because MPC was not named in the caption as a party.

Questions:

A. How should the district court rule on the Motion to Dismiss filed by DHS?

Explain your answer.

B. Assume for this part only that the DHS motion was denied. How should the district court rule on Jane's Petition for Appeal? Explain your answer.

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THIS IS A 30-MINUTE QUESTION CARRYING MAXIMUM GRADE POINTS OF 100.

Your client has entered into a contract to buy Blackacre from Johnny Jacobs. You have examined an abstract of title covering Blackacre. You've learned the following facts about the chain of title from examining the abstract, and you know some of these facts from practicing law in the county in Oklahoma where Blackacre is located:

In 1917 Asa Able, the original patentee, joined by his spouse executed a warranty deed conveying Blackacre to Bill Baker "and his heirs."

In 1929 Bill Baker joined by his spouse executed a warranty deed conveying Blackacre to Chuck Charles "for life" then to Dawn Dale and her heirs. (Chuck Charles died in 1931.)

In 1933 Dawn Dale joined by her spouse, executed a warranty deed conveying Blackacre to Eloise Eway "upon condition that she construct and maintain an Eway Grocery Store on the property and in the event she does not do so, then Dawn Dale may re-enter and possess the premises." (Eloise Eway never operated a grocery store on the premises. Dawn Dale died in the nineteen eighties, a resident of Connecticut.)

In 1946 the neighbors fenced their ranch. The fence enclosed all of their ranch and approximately thirteen acres of the west side of Blackacre. Those thirteen acres have been used by the neighbors as part of their pasture since 1946.

In 1951 Eloise Eway executed a warranty deed conveying Blackacre to Fred Fox and his brother Foster Fox as joint tenants. (Foster Fox died in 1963.)

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In 1966 a man named Gary George joined by his spouse, executed a warranty deed conveying Blackacre to Hayden Haygood.

In 1975 Fox joined by his spouse executed a warranty deed conveying Blackacre to Gary George.

On January 3, 1980 Hayden Haygood joined by his spouse executed a warranty deed conveying Blackacre to their three children, Happy Haygood, Harley Haygood and Deborah Green.

In 2008 Harley Haygood, while on his honeymoon, executed a warranty deed conveying Blackacre to Irvin Isaac.

In 2009 Richard Mason “as attorney-in-fact for Irvin Isaac” executed a warranty deed conveying Blackacre to John Jacobs. (The power of attorney does not appear in the abstract.)

In 2010 John Jacobs executed a transfer on death deed naming his son, Johnny, as grantee.

Identify and discuss each issue raised by these facts and determine who holds title to Blackacre. Explain your answer.

February 23-24, 2010, Oklahoma Bar Examination

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Bill and Chris have been drinking at the local bar. Bill and Chris finish their last drink and get in Bill's car to go home. Bill asks Chris to drive because Bill says he is too drunk to drive. Chris agrees to drive and they begin their drive home.

On the way home a police officer stops them and says it was because Bill's taillight is out. The police officer approaches the window of the driver's side of the car. At the window, the officer asks Chris if he's had anything to drink. Chris says "Yes, I've had a few drinks." The officer asks Chris if he will step out of the vehicle to perform a sobriety test. Chris agrees. The officer performs a sobriety test and Chris fails.

The officer sees Bill in the passenger seat asleep and asks Chris what is wrong with him. Chris says "He's just passed out because he can't hold his liquor."

The officer asks Chris if he has any marijuana on his person and Chris says "No". The officer asks if there is any marijuana in the vehicle and Chris says "No". The officer asks if Chris minds if the officer searches the vehicle, and Chris says "No, go ahead."

During the search of the vehicle, the officer finds a baggy of a green leafy substance suspected to be marijuana in the glove box along with a 9mm glock handgun. The officer also finds a backpack in the trunk of the vehicle and inside the backpack is a baggy of a white powdery substance believed to be methamphetamine. In addition to the suspected drugs, the

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officer finds various computer equipment and numerous cell phones. Chris is placed under arrest.

While Chris is being arrested, Bill wakes up and without realizing all that has happened, suddenly says "Don't let the officer search the vehicle. I don't want them to find my stuff." Bill is also placed under arrest.

The officer checks the license and registration information of the vehicle and neither traces back to Chris or Bill. The green leafy substance later tested to be marijuana and the powdery substance tested to be methamphetamine.

Questions:

- A. What crimes can the prosecutor charge Chris and Bill? Explain your answer.
- B. Would your answer to Question 'A' change any if there were additional facts showing that Bill's taillight did indeed work? Explain your answer.
- C. Would your answer to Question 'A' change any if Chris had not given consent to search the vehicle? Explain your answer.

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THIS IS A 30-MINUTE QUESTION CARRYING MAXIMUM GRADE POINTS OF 100.

Ann, a widow and life long resident of Jefferson County, Oklahoma, is 86 years old and suffering from a rapid onset of Alzheimer's and dementia. Ann's physicians have told her family that Ann can no longer live independently. Ann's three daughters, Betty, Carol and Donna all agree that she needs a guardian, but they disagree over who should be guardian and where Ann should live. Betty is a socialite living in the town of Edmond, located in Oklahoma County, Oklahoma. The Edmond Junior League recently opened an upscale assisted living center with a special "Memory Care Unit" where Betty would like for her mother to live. Carol and Donna have suggested that Ann should stay in a small but clean nursing home in Jefferson County near other family members and friends. Ann's son Elvin, a wealthy Texas oilman, lives on a ranch near Wichita Falls, Texas. He disputes the need for a guardianship and has suggested that his mother just needs to move into the large mansion he shares with his wife and four sons, and their housekeeper and cook.

Betty offers to take Ann to her home in Edmond while the family makes a decision about the guardianship and permanent home for Ann. On February 1, 2010, one month after Ann comes to Betty's house; an attorney hired by Betty files a petition in the District Court of Oklahoma County for special and permanent guardianships naming Betty as guardian over Ann. Also on February 1, 2010, in an ex-parte hearing without notice, the Oklahoma County judge grants the petition for appointment of a special guardian and schedules a hearing on March 1, 2010 for the petition for appointment of a permanent guardian over Ann's person and estate.

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Questions:

- A. Betty's estranged daughter has told Carol and Donna about the February 1st hearing and the hearing scheduled March 1, 2010, but Carol and Donna did not receive written notice of either proceeding. Carol and Donna have come to you to file an objection. What issues can they raise regarding the appointment of a special guardian by the Oklahoma County District Court? What issues can they raise regarding the hearing scheduled for March 1, 2010? Explain your answers.
(40 points)
- B. What jurisdictional issues would be relevant to any attempt by Elvin to file an action in federal court in the Western District of Oklahoma to prevent the appointment of a guardian over Ann by the Oklahoma County District Court? Explain your answer. (30 points)
- C. On February 20, 2010, Carol and Donna take their mother back to Jefferson County for her birthday. On February 21, Carol and Donna hire a Jefferson County law firm to file a petition for their appointment as Co-guardians over Ann in Jefferson County, Oklahoma. Does the District Court of Jefferson County have jurisdiction over this proceeding? Explain your answer. (30 points)

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Jack is eighty-five years old. He suffers from crippling arthritis and cannot walk without assistance. He resides in a facility reserved for the elderly and/or disabled. He has been diagnosed with early stages of Alzheimer's disease. His children, two daughters and a son, all in their sixties, concluded years ago that Jack suffers from senile dementia. They rarely visit or think of him.

Jack's roommate, Bob, is seventy-five and enjoys robust physical health. Bob regularly involves Jack in his daily activities and always includes Jack as his guest when he visits his son, Tom, and his family who live modestly in a small home near the facility. Bob lives frugally from month to month on his retirement income with nothing to spare.

Jack owns local real estate valued at \$200,000 and separate CD's totaling \$300,000. Title to all he owns is in the name of Jack and his deceased wife as joint tenants with right of survivorship.

Bob's son, Tom, informs you that Jack would like to make a will (he does not have one) and provide for Bob's support after Jack's death. Also, Jack has requested that Tom consider being his guardian in order to manage his finances.

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Questions:

- A. In light of his mental state, can Jack legally execute a will? Explain your answer.
- B. What other estate planning options are available for Jack in addition to or as an alternative to a guardianship? Explain your answer describing the advantages and limitations of each.

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THIS IS A 30-MINUTE QUESTION CARRYING MAXIMUM GRADE POINTS OF 100.

On November 30, 2009, three vehicles and drivers were traveling south on Highway 69 in Craig County, Oklahoma. Joseph Jones was driving his vehicle too fast to stop before colliding with a vehicle driven by Harold Newman. Harold Newman's vehicle rear ended a vehicle driven by Mary Smith. All three drivers live in Craig County. Mary Smith claimed the collision caused injuries to her left leg and lower back.

Mary Smith was involved in another accident on January 17, 2010. Larry Lawson failed to yield the right of way and his vehicle hit Mary Smith's vehicle. This accident occurred in Mayes County, Oklahoma. Larry Lawson lives in Mayes County and works in Craig County. Mary Smith claimed this collision aggravated the earlier injuries to her lower back and left leg.

On February 1, 2010, Mary Smith filed a lawsuit in Craig County, Oklahoma against Joseph Jones, Harold Newman, and Larry Lawson. A process server served the summons and petition on Joseph Jones at his home, and on Harold Newman at his home. The process server served the summons and petition on Larry Lawson at his work place. Mary Smith claims that her injuries cannot be separated and that all drivers are jointly and severally liable.

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Questions:

- A. Is venue proper in Craig County? Explain your answer.
- B. Can claims against all three defendants be brought in the same lawsuit and be determined at the same trial? Explain your answer.
- C. Are the defendants jointly and severally liable for Mary Smith's claimed injuries? Will the defendants be responsible for different amounts? Explain your answer.

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THIS IS A 30-MINUTE QUESTION CARRYING MAXIMUM GRADE POINTS OF 100.

In an effort to slow the foreclosure rate, the State Legislature enacted a statute which forbids mortgage companies from foreclosing any and all adjustable rate mortgages on homesteads for a period of 2 years from the effective date of the legislation. The Legislature's stated intent is to provide time for those homeowners to renegotiate the terms or find alternate financing.

The lending institutions, both local and national, are up in arms as they too are struggling. A major national bank retains you to challenge the law.

Questions:

- A. What challenges to the law could be raised? Explain your answer.
- B. What hurdles would a bank face in challenging the law? Explain your answer.

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THIS IS A 30-MINUTE QUESTION CARRYING MAXIMUM GRADE POINTS OF 100.

You are a partner in a large law firm in Major City, Oklahoma where you supervise over 200 attorneys. Oil and gas law has been your primary area of practice for the better part of fifteen years. Other than taking a federal Indian law class in law school, you have no practical experience litigating or practicing before Indian courts or tribal governments.

Christopher Cross is one of your biggest clients. Last Wednesday, Chris came to your office for a meeting to discuss his oil and gas business and to discuss some legal strategies for the purchase of new mineral interests. After the meeting, he asks you for some legal advice totally unrelated to his business interests, and you indulge him since he is paying you by the hour. He begins to tell you that over the previous weekend, he was at an Indian casino where he spent several hours and several thousand dollars in the facility. During the last night there, at about 3:00 a.m., Chris decided to head for the house. He made it to his car just fine, and left the parking lot and headed toward the major intersection some quarter mile from the casino. When he reached the intersection, he was car jacked and beaten badly with a pistol and pulled through the car window. He concludes his story by stating that a passerby called the police, and the tribal police were the first ones on the scene. Chris wants your legal advice. You tell him that you will do some checking and will be in touch.

The next day you have your legal assistant call Chris to ask him to send to your office all of the documents that he has from the tribal police, the city police, and the county sheriff, along

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with any medical bills that he may have received. Chris faxes them right over. Once you have the papers, you pass them off to one of your young associates, Donald, who has only been with the firm for about three months and who just passed the bar about four months ago. You tell your young apprentice that he needs to do some research on this matter to determine who is responsible and who they can sue.

Donald is full of zeal and vigor. Over the next few days, he decides to take it upon himself to contact the Indian casino to find out if they have any documents they could send you. They direct him to their chief legal counsel who tells Donald that even if they did have information regarding this incident, they were not going to release it without an order from their tribal court. Donald, in a fit of rage, threatens to sue the tribe, the casino, the chief legal counsel, and anyone else who stands in his way. Unbeknownst to you, he also sends a letter to the general manager of the casino demanding \$1 million dollars in damages.

A few days later you receive an angry phone call from Chris telling you that he has received a letter from the casino's general manager. The letter states that while Chris is a valued patron, he is no longer welcome in the facility and the matter will be turned over to their chief legal counsel. Chris says that if this is the way your firm handles all of its business, then he is taking his business elsewhere. He wants to know what you are going to do about it.

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THIS IS A 30-MINUTE QUESTION CARRYING MAXIMUM GRADE POINTS OF 100.

Questions:

Do not address any other area(s) of law when answering the following questions:

- A. Is there an attorney-client relationship between your firm and Chris?
Explain your answer. (10 points)
- B. What duty, if any, do you owe Chris? Explain your answer. (25 points)
- C. What type of fee arrangement(s) is permissible between you and Chris, if any?
Explain your answer. (10 points)
- D. Are you responsible for Donald's actions? Explain your answer, being sure to discuss the ethical rules regarding partners and their associates. (25 points)
- E. What disciplinary action may be taken by the Oklahoma Bar Association against Donald? Explain your answer. (25 points)
- F. Identify and discuss any other ethical issues presented. (5 points)

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In June of 2008, the Oklahoma District Court for Kay County dissolved the marriage of Steve and Lacy Thompson. There were no minor children of the marriage.

In March of 2009, Steve remarried and moved to Tulsa, Oklahoma. In June of 2009, Lacy's employer promoted her to a managerial position. She received a significant raise, but was also required to move to Oklahoma City, Oklahoma. In August of 2009, Lacy moved in with her boyfriend, who also lives and works in Oklahoma City, Oklahoma.

You are an attorney in private practice in Oklahoma City, Oklahoma. It is now February of 2010 and Lacy has come to your office seeking advice. Lacy has questions regarding two paragraphs in her divorce decree. The paragraphs are as follows:

[Steve] is ordered to pay Support Alimony for the use and benefit of [Lacy] in the total sum of \$18,000. [Steve] shall pay \$500 per month commencing on September 1, 2008, and continuing on the 1st day of each month thereafter for a period of 36 months.

[Steve] is awarded all the parties' right, title and interest in and to the following personal property, to wit: The 1992 Jeep Cherokee, the Honda motorcycle, all his personal affects and belongings, all household furniture currently in his possession and his 401(k) account with Warner & Burns Company.

Recently, Steve contacted Lacy and told her that he is going to file a motion to terminate and/or modify the support alimony provision of the decree. Lacy tells you that, if the Court allows him to get out of paying alimony, then she wants to modify the property awarded to Steve, and ask for half of his 401(k).

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Questions:

- A. If Steve or Lacy file a motion to modify, in which county should they file the motion? Explain your answer.
- B. Should the Court terminate and/or modify the support alimony provision of the decree? Explain your answer.
- C. Should the Court modify the provision awarding Steve's 401(k) account to him? Explain your answer.

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THIS IS A 30-MINUTE QUESTION CARRYING MAXIMUM GRADE POINTS OF 100.

On March 12, 2007, First United Bank loaned money to Drake Products, Inc. To secure its loan, First United took a purchase money security interest pursuant to a Security Agreement in “all Drake’s existing and after-acquired accounts receivable, general intangibles, and the proceeds thereof.” To perfect its interest in the collateral, First United filed a Financing Statement in the Office of the County Clerk for Oklahoma County on March 27, 2007. The Financing Statement contained the exact language quoted above.

On February 10, 2008, Second Bank extended a loan to Drake, and Drake gave Second Bank a security interest pursuant to the terms of a Security Agreement in two particular accounts receivables as collateral. Second Bank perfected its interest in Drake’s collateral by filing a Financing Statement in the Office of the County Clerk for Oklahoma County of February 15, 2008. The description of the collateral in the Financing Statement was limited to the two particular accounts and the proceeds thereof.

Drake used debtor payments from all of its account receivables to repay in full the loans made to it by Second Bank on May 20, 2008. On August 16, 2008, Drake filed for bankruptcy.

First United Bank hires you to represent it in this matter.

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Questions:

- ANSWER ONLY THE QUESTIONS ASKED -

- A. Does First United Bank have any rights in the funds paid to Second Bank because of its personal money security interest in “all of Drake’s existing and after-acquired accounts receivable...and the proceeds thereof”? Explain your answer.
- B. Assume for this subpart only that the disputed collateral were “all of Drake’s goods and the proceeds thereof”. Does First United Bank have any rights in those funds paid to Second Bank? Explain your answer.

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THIS IS A 30-MINUTE QUESTION CARRYING MAXIMUM GRADE POINTS OF 100.

Albert comes to your office and asks you to prepare a will for him. He is married to Bernice and has one son, Carl, by that marriage. This is his only marriage and he has no other children. Bernice was previously married and she had a daughter, Dianne, by her previous husband. Bernice has no other children. Albert's parents are deceased but he has two living siblings, Ester and Frank. Albert is a lifetime resident of McIntosh County, Oklahoma, and he owns real property in Pittsburg, Muskogee, and Okmulgee Counties.

Albert wants his will to leave his entire estate to his wife. He tells you that you are to specifically disinherit both Carl and Dianne because they have both treated Albert and Bernice badly. He tells you to name Bernice as Personal Representative but declines to name an alternate. Despite your questioning, Albert insists that no further testamentary disposition of his estate be made in the will. You prepare the will in proper statutory form as a self-proving will and it is properly signed and executed.

Years pass, and Albert and Bernice have a surprise late in life...another child, Greg. Bernice died in 2008 and her will, validly executed, left her entire estate to Albert and that probate has been completed.

Albert moved to the Texas gulf to enjoy his retirement. Albert died last month without having ever made a new will. Greg, now seventeen years of age, comes to you for advice and

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presents you with the original will which you drafted for Albert. He asks you the following questions.

Questions:

- A. Is Greg required to offer Albert's will for probate since it makes no provision except for Bernice? Explain your answer.
- B. If Albert's will is offered for probate, where may it be admitted? Explain your answer.
- C. Who is entitled to be appointed Personal Representative of Albert's estate? Explain your answer.
- D. Who will inherit Albert's estate? Explain your answer.
- E. To whom is notice required to be given concerning the probate petition, and in what manner must it be given? Explain your answer.

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THIS IS A 30-MINUTE QUESTION CARRYING MAXIMUM GRADE POINTS OF 100.

Ann owns 35% of the stock in Dadco, Inc., an Oklahoma corporation. Ann's brother Carl owns the other 65%. Both inherited their interest from their deceased father in 1995. Carl has been in charge of the business of Dadco since that time. Carl is President and his wife, Mary, is Secretary. Carl is also the sole owner of Realco, LLC, an Oklahoma limited liability company, which owns an empty 5,000 square foot office building that last rented office space to a third party in 2008 at a rate of \$2.00 per square foot. Dadco conducts a telephone calling service and has 2 employees other than Carl. Dadco also owns a patent on a device that has not been marketed, but Carl has been in negotiations which, if successful, will result in substantial long-term income to the patent owner.

The By-laws of Dadco state that the Company "adopts the Oklahoma General Corporation Act" and make no more specific provisions, other than to provide for a Board of Directors who "shall be the same as the shareholders of the Company", and the corporate officers of President and Secretary.

Last Tuesday Carl called Ann to "come in and talk about some things." While they were together Carl told Ann that he, as President of Dadco, had signed a 10 year lease agreement at a rate of \$10.00 a square foot with Realco by which Dadco leased Realco's entire building. Carl also told Ann that even though Dadco had never paid a dividend, now would be a good time for

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Dadco to pay a dividend. Since Dadco was short of cash Carl, thought a good dividend would be to use all the Dadco cash reserve to pay Ann \$5,000 in cash and to transfer ownership of the patent to Carl. Carl did not mention any negotiations regarding the patent. Carl then told Ann that as long as they were present together, they would consider the meeting a Dadco Board meeting, the first ever. Carl told Ann that since he owned 65% of the stock, he had 65% of the Board voting rights. Carl then voted to approve the Lease to Realco and the dividend as he had proposed. Since Ann needed cash, she agreed to Carl's proposal.

After last Tuesday, Ann has heard rumors about comparable lease rates and the patent negotiations, and has come to see you. Ann has asked Carl to see the corporate financial books and records and Carl refused.

Questions:

As to each part below, explain your answer and discuss the corporation law issues relevant to your answer to that question.

- A. Does Ann have a right to see the financial books and records of Dadco? If so, what is the basis and what should she do to enforce that right?
- B. What, if any, obligation did Carl have to disclose information to Ann about the business dealings of Dadco? Explain your answer.

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- C. Is the Dadco Lease with Realco a binding act on Dadco? Explain your answer.
- D. Was the dividend a proper corporate act of Dadco? Explain your answer.
- E. Could Ann properly sue Carl to recover ownership of the patent from Carl for Dadco? Explain your answer.
- F. Can Ann properly sue Carl for diminishing the value of her stock in Dadco? Explain your answer.
- G. Can Ann require that Dadco be dissolved? Explain your answer.
- H. Can Ann require that Carl buy her stock in Dadco? If so, how would the stock value be determined? Explain your answer.