

QUESTION NO. 1 (Page 1 of 2)

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

Your client ("Client") is the president of Print4U, Inc., an Oklahoma corporation that prints newspapers and magazines in the state of Oklahoma. Since 2005, Print4U has been printing weekly editions of the *Blanchard Bugle*, a newspaper published by Donco, Inc. ("Donco"), also an Oklahoma corporation. Print4U has a written contract with Donco which states that Donco will pay \$7,500 per month in printing fees. Don Cowan signed the contract as "President" of Donco. All communications Print4U had with Donco have been with Don Cowan.

Earlier this year, Print4U was notified by Don Cowan that Donco was not able to pay its outstanding balance of \$15,000 owed for printing the October 2011 and November 2011 editions of the *Blanchard Bugle* and that the corporation was considering filing for Bankruptcy. Client has asked you to file a petition to collect the \$15,000 owed. When you checked with the proper agency you discovered that Donco's corporate status was listed as "inactive" since 2004 due to a failure to file Oklahoma Business Activity Tax Returns with the Oklahoma Tax Commission.



KFO
1276
.052

QUESTION NO. 1 (Page 2 of 2)

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

Questions:

- A. What agency would know whether Donco, Inc. is a corporation in good standing in the state of Oklahoma, and where would you find this information?
- B. What other information must be kept on file by this agency regarding Oklahoma corporations? Explain your answer.
- C. Who should be listed as a Plaintiff in the lawsuit? Explain your answer.
- D. Does Don Cowan bear any responsibility for the debt or need to be named as a defendant in the lawsuit? Explain your answer.

QUESTION NO. 2 (Page 1 of 4)

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

Oklahoma Seafood Wholesalers, LLC (“OK Seafood”) has been selling fresh fish to grocery stores throughout Oklahoma for twenty years. Its principal place of business is in Tulsa. In 2002, OK Seafood entered a written contract with Gulfport Shrimp, Inc. (“Gulfport”) of Gulfport, Mississippi, for the sale of fresh jumbo shrimp from the Gulf of Mexico. As of January 2010, the written terms required Gulfport to deliver 500 pounds of jumbo shrimp to OK Seafood every Wednesday, at a cost of \$15 per pound, the equivalent of \$7500 per week. Gulfport agreed to deliver the shrimp within 48 hours of harvesting. Federal regulations require these shrimp to be sold to retailers within five days of harvesting.

The contract between OK Seafood and Gulfport provided that either party could cancel the contract by giving ten weeks’ notice. It also provided that because fresh shrimp are perishable, if either party canceled with less than ten weeks’ notice, that party would be required to pay the value of the difference between twenty weeks of shipments and the number of weeks of notice actually given.

On April 20, 2010, the Deepwater Horizon oil rig exploded in the Gulf of Mexico. Over the next few weeks, state and federal authorities severely restricted fishing in many parts of the Gulf. As a result, Gulfport was unable to continue supplying jumbo shrimp to its many customers throughout the United States. On June 1, 2010, Gulfport sent the following email to OK Seafood:

QUESTION NO. 2 (Page 2 of 4)

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

As you know, the Gulf is largely closed to fishing for the foreseeable future. In fact, we are currently able to fill only about 20% of our customers' jumbo shrimp requirements. Because of the disaster, Gulfport will not be able to ship any jumbo shrimp to OK Seafood, starting immediately. We sincerely apologize, but these circumstances are beyond our control.

Questions:

- A. On the day she received the email, the owner of OK Seafood hired you as its attorney. In a panic, she showed you the contract and asked whether it would be advisable to sue Gulfport for breach of contract. Assume that Oklahoma law applies. Would you be able to establish that Gulfport breached the contract? Explain your answer. Be as specific as you can. (25%)
- B. The day after she came to you in a panic, the owner of OK Seafood decided that because Gulfport had been a good supplier and was facing an environmental crisis, she did not want to sue. Instead, she telephoned Gus Gaston, Gulfport's president, and expressed her condolences. She went on to thank him for Gulfport's excellent service over the years and said that OK Seafood would definitely want to contract with Gulfport again if it gets back on its feet. Mr. Gaston agreed to supply OK Seafood in the future, if possible.

QUESTION NO. 2 (Page 3 of 4)

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

Nine months later, the owner of OK Seafood visits you again. Soon after Gulfport stopped supplying OK Seafood, she found another weekly supplier for jumbo shrimp. One month before the current meeting, however, OK Seafood got the following email:

Thank you for your kind words when we had to cancel our contract, as well as your willingness to continue doing business with us. We have been ramping up our jumbo shrimp production and we are pleased to report that we can now supply OK Seafood with 200 pounds of jumbo shrimp per week, under the same terms as our earlier contract. Please respond by email to indicate your receipt of this confirmation. We look forward to doing business again.

Gus Gaston
President
Gulfport Shrimp, Inc.

The owner of OK Seafood explains to you that the low-level clerical person at OK Seafood who received the email ignored it. Four days before your current meeting, 200 pounds of jumbo shrimp from Gulfport arrived at OK Seafood's warehouse in Tulsa. Because OK Seafood didn't need more shrimp, it sent all 200 pounds back. On the morning of your current meeting, a lawyer for Gulfport called OK Seafood and threatened to sue for breach of contract. Again, assume Oklahoma law applies.

QUESTION NO. 2 (Page 4 of 4)

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

What would be Gulfport's best argument that OK Seafood has breached a contract?

Would this argument prevail? Explain your answer. Be as specific as you can. (50%)

C. If Gulfport were to prevail, what damages would OK Seafood be required to pay?

Explain your answer as specifically as you can. (25%)

QUESTION NO. 3 (Page 1 of 2)

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

Ann and Bob married in 1982. They had three children during their marriage, Charles, Diane and Eric. Through the years, Ann and Bob drifted apart. Even though they remained married, they lived separately while both maintained legal residences in McIntosh County.

In 2002, Bob began what became a long-time affair with Gayle. Their relationship resulted in the birth of a daughter, Hannah in 2005. Bob ultimately decided that he simply could not live without Gayle, so he filed for divorce from Ann in 2011.

While the divorce proceeding was pending, Bob and Gayle took a trip together to Jamaica. However, the plane crashed while attempting to land in Jamaica. Gayle survived, but Bob died after several days in a Jamaica hospital. Out of her love for her husband, Ann decided to fly to Jamaica to recover Bob's body. But on takeoff from Dallas, Texas, the airplane on which Ann was riding crashed, with no survivors.

Both Bob and Ann have valid wills which were executed in 2000, each of which left one-half of their estates to each other if living, and one half to their three children, Charles, Diane and Eric. Both wills provided that if either Bob or Ann were deceased, their entire estates would pass to Charles, Diane and Eric equally. They appointed each other as personal representatives of their estates, and neither named an alternate personal representative.

Ann and Bob owned no joint property, and the estate of each was located entirely in McIntosh County. Ann and Bob's three children are all adults. The three of them come to you for advice. They advise you that they are aware of their half sister, Hannah. They produce both wills for your review, and ask you the following:

QUESTION NO. 3 (Page 2 of 2)

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

Questions:

For the purpose of this discussion, you are to assume that both wills are validly executed and are not subject to attack for lack of capacity, fraud, duress or under influence. You are also to assume Bob acknowledged that Hannah was his daughter at the time of her birth, and assume the other three children do not dispute paternity.

- A. What are the rights of the three children under Bob's will? Explain your answer. (20 points)
- B. What are the rights of the three children under Ann's will? Explain your answer. (20 points)
- C. What rights, if any, does Hannah have to inherit from the estate of either Bob or Ann? Explain your answer. (20 points)
- D. Assume for this subpart only that Hannah inherits. How and by whom would her share of the estate be managed? Explain your answer. (20 points)
- E. Where should the two estates be probated and who should expect to be appointed alternate Personal Representative of the estates? Explain your answers. (20 points)

QUESTION NO. 4 (Page 1 of 2)

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

Sue was seriously injured when a hit-and-run driver ran a stop sign and hit her car. The police found the car that hit Sue abandoned nearby. The car owner (Car Owner) claimed his car had been stolen.

Sue filed a lawsuit against Car Owner, alleging that he was responsible for her injuries. Car Owner denied any liability. Before trial, Sue and Car Owner reached a settlement. The written Settlement Agreement stated, in part:

- (1) The parties agree that they are entering into this Agreement as a compromise of disputed claims and to avoid the cost and expense of litigation. By entering into this Agreement, neither party admits any wrongdoing, liability or obligation whatsoever.
- (2) Based upon her injuries, Sue is entitled to \$10,000 to be paid by Car Owner to Sue.
- (3) This agreement was not executed in reliance upon any statement or representation by either party.

The parties announced to the Court that they had reached a settlement. Car Owner paid the settlement money. Sue and Car Owner filed a joint dismissal "with prejudice."

Sue soon learned that the car which collided with her actually was stolen. She learned that rich neighbor (Rich Neighbor) was driving the car. Sue filed a second lawsuit against Rich Neighbor alleging that he was responsible for her injuries.

QUESTION NO. 4 (Page 2 of 2)

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

Questions:

- A. What effect, if any, does the first lawsuit and its dismissal with prejudice have on Sue's ability to file the second lawsuit? Explain your answer. (60 points)
- B. What effect, if any, does the settlement have on Sue's ability to recover damages in the second lawsuit? Explain your answer. (25 points)
- C. What recourse, if any, does Car Owner have? Explain your answer. (15 points)

QUESTION NO. 5 (Page 1 of 2)

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

Jean is a Senior Partner at the Law Firm of Switzer, Selmon, White and Jones. Jean has over twenty years of legal experience in the field of criminal defense. Jean plans to retire and requests the firm hire a new attorney.

The firm hires TJ, an attorney who just recently passed the Oklahoma Bar Exam and has no legal experience. The firm assigns TJ to Jean, who will act as TJ's supervising attorney. Jean spends a few hours discussing routine office matters with TJ and then assigns TJ to a new client, Kurt. Kurt is accused of the minor offense of stealing a bag of coffee from a local supermarket. Kurt is still in jail and Jean tells TJ to go to the jail and "talk to our client and find out what is going on". TJ asks no questions and hurries to the county jail to talk to Kurt.

TJ and Kurt talk to one another in the attorney-client room of the County Jail. TJ tells Kurt that she is the attorney from the firm assigned to represent him. Kurt agrees and TJ asks Kurt what happened. TJ reminds Kurt that he can safely tell her anything about the alleged theft as all communications are privileged. Kurt eagerly tells her that he was stressed out and needed coffee, but he didn't have any money. TJ asks Kurt why he was "stressed out" and Kurt tells her it was because he had just finished stabbing his wife and hiding her body where no one would find it. Kurt goes on to say that he "thinks" that he killed her. Kurt proceeds to give TJ intimate details of the crime, including the location of the crime scene and his wife. Horrified, TJ doesn't tell Jean or anyone at the Firm about Kurt's disclosure, but instead calls the local police

QUESTION NO. 5 (Page 2 of 2)

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

department five minutes after her meeting with Kurt and tell them everything that Kurt has told her, including the details of theft.

The local police immediately find the corpse of Kurt's wife and charge Kurt with First Degree Murder. A day later, Kurt fires TJ and the firm and hires new counsel. Kurt also files a bar complaint against TJ, Jean and the entire firm of Switzer, Selmon, White and Jones.

Identify and discuss each ethical issue presented by these facts under the Oklahoma Rules of Professional Conduct. Explain your answer.

QUESTION NO. 6 (Page 1 of 2)

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

The Department of Agriculture, Food and Forestry Consumer Protection Services is an administrative agency responsible for, among other things, promulgating Oklahoma Horticulture Rules. The Rules include an imported fire ant quarantine. Under the quarantine rules, equipment used to move or transport soil – bulldozers, road scrapers and dump trucks – may not be moved from Coal County to Oklahoma County without an authenticated certificate or permit issued by the agency.

In response to the increased red tape caused by these Rules, a dirt contractor in Colgate, Oklahoma met with officials of the Department of Agriculture at a restaurant in Oklahoma City and requested that the rules be revised to exempt heavy equipment from the certificate requirement. At the meeting, an informal decision was made to amend the rule on an emergency basis to exempt bulldozers. The Department of Agriculture published the new rule on its website. The new rule was also presented at the monthly meeting of the County Commissioners of Coal County, Oklahoma and approved. The approval included an instruction to publish the new rule in seventeen newspapers published in counties across southeastern Oklahoma.

As people learned of the change in the Fire Ant Quarantine Rules, members of consumer groups, agricultural groups and state legislators began to call the governor's office and the Department of Agriculture requesting an opportunity to be heard about how fire ants were impacting agriculture in the State of Oklahoma. Reporters from *The Daily Oklahoman* sought

QUESTION NO. 6 (Page 2 of 2)

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

the minutes of the Oklahoma City restaurant meeting and were told that there were no minutes but the dirt contractor had his own notes.

A month later, a truck carrying three dirt-encrusted bulldozers from Coal County to a jobsite in Oklahoma County was stopped and ticketed for not having a permit. The owner of the truck and the bulldozers sought and was granted an administrative hearing before a hearing officer in the Department of Agriculture. The hearing officer ruled in favor of the State and the bulldozer owner appealed the ruling to the District Court in Coal County.

Identify and discuss each administrative law issue raised by these facts.

QUESTION NO. 7 (Page 1 of 2)

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

In 1995, Pam and Bill's father (the "Father") bought an 80 acre tract of unimproved farmland (the "Property") located in Love County, Oklahoma. Along the southern boundary of the Property was a well-maintained county road (the "County Road"). Father fenced the entire entry onto the Property, providing only one gate (the "Gate") off the County Road for entry onto the Property.

Along the northern boundary of the Property was a large creek (the "Creek") with steep, rocky banks. Although there was a public road near the North side of the Creek, there was no vehicular access to the Property from the North since there was no bridge across the Creek. Father died in 2008, leaving the North half of the Property (the "North 40 Acres") to Pam, and the South half of the Property (the "South 40 Acres") to Bill. An appropriate Estate Decree was entered in Father's Estate proceeding making this division of the Property.

In 2009, an oilfield service road (the "Service Road") was built by the operator of a producing oil well located on the North 40 Acres. The Service Road entered the Property on its southern border through the Gate, wound its way North across the South 40 Acres, crossed onto the North 40 Acres, and continued almost all the way to the Creek. In 2010, Pam built a cabin on the North 40 Acres near the edge of the Creek. Pam used the entire length of the Service Road, including the portion of the Service Road located on the South 40 Acres, for access to the North 40 Acres.

QUESTION NO. 7 (Page 2 of 2)

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

In 2011, without consulting Bill, Pam sold the North 40 Acres to a group of hunters (the “Hunters”). Bill was upset by this sale and made an offer to buy the North 40 Acres from the Hunters. Upon receiving notice that his offer had been rejected, Bill locked the Gate and refused to allow the Hunters to access the North 40 Acres by using the Service Road across the South 40 Acres. After determining that a bridge across the Creek to the North would cost \$50,000, the Hunters filed suit against Bill, asking the District Court of Love County, Oklahoma, to grant Hunters an easement of necessity across the South 40 Acres for the purpose of ingress and egress to and from the North 40 Acres.

Discuss fully all common law elements the Hunters are required to prove in order for the Court to properly grant them an easement of necessity across Bill’s South 40 Acres. For each element, provide your analysis as to whether the facts given are sufficient for the Hunters to be able to establish that element. Include in your answer the common law’s rationale for allowing an easement of necessity to be created by the Courts. Finish your answer with your reasoned opinion as to the likely outcome of this lawsuit.

QUESTION NO. 8 (Page 1 of 1)

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

In an effort to curb childhood obesity, the City of Oklahoma City recently passed an ordinance which bans all advertising by national chain restaurants within 1,000 feet of a school, and “any other location where minors gather” within the city limits.

Local franchisees of several local restaurants contacted the Association of Chain Restaurants (“ACR”), of which they are members, for help in fighting the ordinance. ACR unsuccessfully opposed the ban when it was enacted. They now have contacted you to represent ACR in an action to overturn the ordinance.

Questions:

- A. Discuss what you would need to prove to show standing.
- B. Discuss the constitutional arguments you would make on behalf of ACR and what the likely ruling a Court would make.

QUESTION NO. 9 (Page 1 of 2)

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

Jill and Bob were married in Louisiana in 1985. In 1990, Jill and Bob moved to Tulsa, Oklahoma and they have resided in Tulsa since that time. Jill has been a homemaker during the entire marriage. Bob has supported the family from oil and gas revenues that were both inherited and gifted solely to Bob from his parents and grandparents. All of Bob's oil and gas properties are located in Louisiana.

On June 1, 2011, Jill filed for divorce in the Tulsa County District Court. Under both Oklahoma and Louisiana law, the inherited and gifted oil and gas properties are Bob's separate property and may not be awarded to Jill in the divorce action. Further, under Oklahoma law, the income from Bob's separate property is also Bob's separate property, including all assets purchased by this income (which have been titled in Bob's sole name). However, under Louisiana law, the income from Bob's separate oil and gas properties is community property, including all assets purchased by this community income. Whether there is marital property to award in the divorce action will be determined by either Oklahoma or Louisiana law.

Questions:

- A. Would the choice of law provisions of Oklahoma or Louisiana be applied in this case? Explain your answer.

QUESTION NO. 9 (Page 2 of 2)

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

- B. After applying the correct choice of law provisions, would the divorce laws of Oklahoma or Louisiana be applied? Explain your answer.
- C. What analysis is applicable in determining which choice of law provisions should be applied? Explain your answer.

QUESTION NO. 10 (Page 1 of 3)

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

Austin and Brenda are students at Acme University, a prestigious private school in Oklahoma. Austin and Brenda have been nominated to receive the university's male and female Student of the Year Award for their leadership on campus and volunteer work in the community. The award is presented at the university's annual gala which is a very formal event where the guests are dressed in tuxedos and formal gowns. As recipients of the award, both students receive a \$10,000 prize.

Immediately after class with their backpacks in tow, Austin and Brenda go to the local mall to buy outfits for the awards presentation. They enter Fran's Formalwear, a clothing boutique. While trying on formal outfits, they are unaware that their every move is being watched by the store security guard through an overhead camera directly above the dressing room. After trying on several items of apparel, each decides not to purchase anything. Rather than hanging up anything they tried on, Austin and Brenda leave the apparel in piles on the dressing room floor. The security guard was distracted because he was also watching other customers, and did not see all the events in their dressing rooms.

After Austin and Brenda leave the store, the salesperson starts to hang up the clothing they left on the floor in the dressing room. She notices that there is an empty hanger in each dressing room. She alerts the security guard, who was watching Austin and Brenda walk down

QUESTION NO. 10 (Page 2 of 3)

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

to Perry's Pizza Parlor, a popular restaurant located in the mall where many students and university faculty eat lunch.

Several minutes after Austin and Brenda arrive in the restaurant, the security guard enters and yells loudly, "BOTH OF YOU ARE SHOPLIFTERS! YOU MUST COME WITH ME TO FRAN'S FORMALWEAR NOW!" Austin and Brenda are mortified; not only have they been wrongly accused of being shoplifters, but several of their classmates and university faculty were present when the security guard made his announcement. Everyone in the restaurant heard the security guard yell. Randy, a reporter for the school newspaper, video recorded the incident on his cell phone and immediately uploaded the footage to the University's newspaper website.

Austin and Brenda, shocked and embarrassed, quietly follow the security guard back to the clothing shop where he conducts a thorough strip search on each of them. Finding nothing on their bodies, he and the salesperson then decide to look through their backpacks. No clothes were located in their backpacks. The entire interrogation and search lasted about an hour.

The next day, the school paper contained an article stating that Austin and Brenda had been arrested for shoplifting. When they arrived on campus, news about the shoplifting incident had spread throughout the university. Many people read the story and saw the video on the newspaper's website. As a result of the incident, the university withdrew Austin and Brenda's nomination for the Student of the Year Award.

QUESTION NO. 10 (Page 3 of 3)

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

Austin and Brenda contact you, an attorney. Please list all claims that Austin and Brenda might have against any person or entity in connection with this fact situation. Include in your discussion all defenses that those persons or entities might have.

QUESTION NO. 11 (Page 1 of 2)

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

Elizabeth married Richard in July of 2009. However, Richard and Elizabeth have separated, and Elizabeth wants to dissolve the marriage. They have a two year old child. Several items of property are at issue.

In 2010, Elizabeth's grandmother passed away and left her \$50,000. Elizabeth received a check from the trustee of her grandmother's trust and placed the money in a savings account at First National Bank. The savings account is a joint account owned by Elizabeth and Richard. They had opened this account with \$25 to be used to deposit vacation savings. Only two deposits have been made into this account since it was opened: the initial \$25 and Elizabeth's \$50,000 inheritance.

Elizabeth has a 401(k) account with her employer. When she married Richard in 2009, Elizabeth's 401(k) had a balance of \$20,000. She has continued to contribute to the account and her employer has continued to contribute matching funds to the account. Currently Elizabeth's 401(k) has a balance of \$26,000.

Richard owns a half interest in 40 acres and a log cabin with his college buddy. Richard and his buddy held a lease with an option to purchase for years prior to Richard's marriage. In 2010, Richard and his buddy purchased the property and the deed names Richard and his buddy as joint tenants. The property is worth \$50,000. Richard and his buddy owe \$30,000 on the property.

QUESTION NO. 11 (Page 2 of 2)

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

Questions:

- A. During the time between the filing of a petition for dissolution of marriage and when a final decree is entered, how will the court determine who gets custody of the minor child? Explain your answer.
- B. Upon entry of the divorce decree, who pays child support and how much child support will be paid? Explain your answer.
- C. Is the money in the First National Bank savings account Elizabeth's separate property or is it marital property? Explain your answer.
- D. Is Richard's interest in the rural property separate property or is it marital property? Explain your answer.
- E. Will Richard be entitled to a share of Elizabeth's 401(k)? If so, how much? Explain your answer.

(This question has nothing to do with Jurisdiction or Venue. If you feel compelled to write something about jurisdiction or venue, for the purposes of this question, assume jurisdiction and venue are proper in Tulsa county.)

QUESTION NO. 12 (Page 1 of 1)

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

You are a junior associate in a personal injury and disability law firm and are under the supervision of a senior partner of your law firm. You are asked to consult with retired lieutenant Dan Rambo, a Vietnam veteran who comes to your law firm seeking advice on how to proceed with filing paperwork for veteran's benefits and disability benefits.

During the consultation, the client tells you that he has never filed paperwork with any federal agency and needs to know what he needs to do to get started. He believes, based on what others have told him, that he could be entitled to thousands of dollars either from the veteran's affairs office or the disability office. He tells you that he has just been diagnosed with post traumatic stress disorder and liver cancer and has no money other than a workman's compensation annuity that covers his rent and utilities. He offers you a civil war musket as a retainer, however, neither one of you are aware of its value. He also offers to make you a beneficiary in his will, which he also asks you to draw up for him. He advises you he has been with his spouse for over twenty-five years, and they have four adult children together. He wants to keep his visit and all information he provides in the consultation strictly confidential and asks that nothing be sent to his residence for fear that something may happen to him should his family find out that he may be getting a huge settlement.

Identify and discuss each ethical issue presented by these facts under the Oklahoma Rules of Professional Conduct. Explain your answer.

QUESTION NO. 13 (Page 1 of 2)

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

Tess, a 75 year-old widow, was diagnosed with a serious heart condition. She tired easily and had a difficult time caring for herself and her home. She hired Freda Swindler to help her around the house and to take her to appointments. Ms. Swindler had been helping her for several months when she convinced Tess to make her estate plan and prepare a will. Ms. Swindler began saying terrible things to Tess about Tess' three children, Alex, Bobby and Connie. Ms. Swindler told Tess that her children did not care for her and only visited so that they could get to her money. Tess became very angry with her children. That evening she sat down at her desk and wrote out her will by hand. The hand written will left her entire estate to Ms. Swindler. The will did not mention her three children. Tess dated the will that day, November 1, 2010, but forgot to sign it.

On March 16, 2011, Tess began having second thoughts about her will. She called her friend, Whitney, and asked her to take her to the office supply store to get a Do-It-Yourself will kit. Tess and Whitney sat down at Tess' kitchen table and prepared a new will. At the top Tess stated "This is my last will and testament, and I hereby revoke all earlier wills and codicils thereto." Tess then left her entire estate in equal parts to her three children, Alex, Bobby and Connie and her friend Whitney, *per stirpes*." In Tess' presence, Whitney and her husband signed the will as witnesses.

QUESTION NO. 13 (Page 2 of 2)

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

Sadly, two weeks later Tess' middle son, Bobby, died in a car accident. Bobby was survived by his two sons, Don and Ed. Tess was completely distraught and in a fit of anger she began destroying her belongings in her home and actually tore up the will dated March 16, 2011. Tess's heart simply could not handle the stress and she collapsed and died.

Tess' surviving children, Alex and Connie present a petition to probate her estate and submit evidence of the terms, execution and validity of the March 16, 2011 will. Ms. Swindle files an objection to the petition and submits the November 1, 2010 will to the court.

Assume Oklahoma law applies when answering the following questions.

Questions:

- A. Alex and Connie come to you for advice. They want to ensure that the November 1, 2010 will does not get admitted to probate. What defenses do Alex and Connie have to the admission of the November 1, 2010 will? Explain your answer.
- B. What arguments can Alex and Connie make to show to the court that the March 16, 2011 will should be admitted? Explain your answer.
- C. Assume Alex and Connie are successful in the admission of the March 16, 2011 will. How should Tess' estate be distributed? Explain your answer.

QUESTION NO. 14 (Page 1 of 2)

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

John is an adult citizen of England. He is in his Oklahoma home alone one day when he heard the sound of someone knocking on his front door. When he answered the door, it was the local Drug Task Force asking to search his residence. Before he could answer the question, the agent that did the knocking said, "There it is," pointing to the coffee table in the living room which had an 11" x 8.5" x 5.5" United States Priority Mail box on it addressed to John from someone living in California.

The agent walked over to the table, smelled the box and said, "This is it." Upon opening the box the agent said, "Here it is."

John was placed under arrest and asked to wait outside while the Task Force continued with their search of the house. The rest of their search turned up three more United States Priority Mail boxes of the same size, each with the same substance inside it, and addressed from the same source. Also in their search, the agents found rolling papers, glass pipes, and one very nasty and smelly water bong. In an upstairs closet, one agent also found a live marijuana plant and grow lights.

While John was outside, he asked to see the warrant. One of the agents gave it to him to read. In it, John read that the agents were looking for marijuana.

After the agent found the marijuana plant and carried it outside, the agent said to John, "What can you tell me about this?"

QUESTION NO. 14 (Page 2 of 2)

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

John said, "Its mine, I use it for personal use. Here is my medical marijuana card," while handing the agent a card issued by the State of California that said, "Medical Marijuana Card."

John was taken to the County Jail.

Questions:

- A. You are the prosecuting attorney. What charges can you file against John and in which jurisdictions? Explain your answers.
- B. You are the Public Defender appointed to represent John. John tells you that the search warrant he read during the agent's search listed the address across the street, described the house across the street and included directions to the house across the street. Assume all of this is true. What defenses does John have to the charges filed against him in question A? Explain your answers.
- C. You are the Judge and John waived his right to a jury trial. As a fact finder, how do you find John for each of the charges listed in question A and defenses raised by question B? Explain your answer.

QUESTION NO. 15 (Page 1 of 3)

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

Jackson's small business of burying telephone cables in homeowner's yards was running short of money. Thus, he decided to personally borrow money from EZ Loans. When Jackson received the money, he signed and gave EZ Loans a printed form entitled "Loan Contract/Promissory Note/Security Agreement." The printed form contained a heading "Collateral," under which EZ Loans wrote in: "All lawn equipment now or hereafter owned." Jackson also signed and gave EZ Loans a UCC-1 financing statement form which said: "This financing statement covers the following types of property: "All lawn equipment now or hereafter owned." The same day it made the loan, EZ Loans filed the UCC-1 financing statement form with the Oklahoma County Clerk.

Several months later, Jackson again ran short of funds in his business. This time he personally borrowed money from Super Finance. When he did so, he signed and gave Super Finance a Promissory Note/Security Agreement and a UCC-1 financing statement, both of which described the collateral as a ditch digger and gave the brand name, year model and serial number of the ditch digger. Jackson personally owned the ditch digger, but used it in his business to bury cable. The same day it made the loan, Super Finance filed its UCC-1 financing statement with the Oklahoma County Clerk.

QUESTION NO. 15 (Page 2 of 3)

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

Jackson defaulted on both loans by not making the agreed monthly payments. EZ Loans declared the entire loan balance immediately due, sued Jackson, and sought a judgment against him for the unpaid balance. EZ Loans also claimed it had a valid security interest in Jackson's lawn equipment, including his ditch digger. Super Finance joined the EZ Loans lawsuit against Jackson. As to its loan, Super Finance declared the entire loan balance immediately due and asked for a judgment against Jackson for the unpaid balance. In addition, Super Finance claimed it had a valid security interest in the ditch digger and the first right to the proceeds from its sale.

Assume Jackson's two loans were neither purchase money loans nor consumer loans. Also assume that Jackson bought the specifically described ditch digger after his first loan and after EZ Loans had filed its UCC-1 financing statement form.

Questions:

A. As to EZ Loans, Jackson admitted default and owing the debt. However, he claimed EZ Loans did not have a valid security interest in any collateral at all because EZ Loans' printed form and its financing statement failed to expressly state that Jackson "grants" or "hereby grants" a security interest to EZ Loans. EZ Loans admitted that its forms did not contain that specific language but EZ Loans argued that its forms, as completed and signed by the parties, were legally sufficient to create a security interest and showed that the parties intended to create

QUESTION NO. 15 (Page 3 of 3)

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

a security interest. Who should prevail? Explain your answer and include a discussion of the elements generally required to create an enforceable security interest and when a security interest attaches to collateral.

B. As to Super Finance, Jackson admitted default, owing the debt and the validity of Super Finance's security interest in his ditch digger. Assuming EZ Loans has a valid security interest, who should prevail between EZ Loans and Super Finance as to the proceeds from the sale of the ditch digger? Explain your answer and include an analysis of both financing statements and the filings done by EZ Loan and Super Finance.

QUESTION NO. 16 (Page 1 of 2)

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

Ford applied for a position as manager with Howard's Shoe Company in their retail outlet and was hired for the position. The owner of Howard's Shoe Company told Ford to be in charge of all aspects of the retail business, including purchasing of the inventory. However, Ford's written contract did not state the latter and only referred to him as holding the position of manager, and did not refer to him having any authority beyond his administrative authority of the day to day running of the retail outlet.

One afternoon, while both Ford and the owner of Howard's Shoe Company were in the retail outlet, Johnson, a salesman for Dacon Shoes, came in with samples hoping to sell a new line of shoes to Howard's Shoe Company. Johnson and the owner of Howard's knew each other but Johnson did not know Ford. The owner of Howard's Shoe Company introduced Ford to Johnson and told Johnson that he (Johnson) would be dealing with Ford on all future orders.

Over the next year, Ford placed multiple orders for shoes with various shoe companies, including Johnson of Dacon Shoes. The purchases were based on Ford's own authority and were delivered and duly paid for by the owner of Howard's Shoe Company.

Approximately two years later, the owner of Howard's Shoe Company orally told Ford he was no longer authorized to purchase inventory, in effect revoking his authority to purchase inventory, and that he (the owner) would be making all future purchases. This revocation was not communicated to anyone other than Ford.

QUESTION NO. 16 (Page 2 of 2)

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

Shortly after the owner's revocation of Ford's authority, Johnson came into the store and Ford placed an order for a substantial number of pairs of shoes. A few days following the placement of this order, Ford was discharged from his duties by the owner of Howard's Shoe Company. The shoes were delivered but the owner refused to pay for the order, complaining that Ford did not have the authority to order the shoes.

For each legal or factual issue raised by the fact situation, identify the issue and discuss how the issue should be resolved. Explain your answer.