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

Leon lived on a 200 acre tract of property in rural Muskogee County. He worked in town as a CPA, but always dreamed of running a cattle ranch. In 1989, Leon received an inheritance and decided to retire from his job as a CPA, buy 60 head of cattle and convert his 200 acre tract into a ranch. Leon then walked his property to make sure it was suitable for a ranch and discovered that there was no fence on the west side of his property. The property to the west of Leon's was owned by Arlo.

Arlo was an artist who spent all his time in his home art studio. He rarely left his home and liked living in the country because it was quiet. Leon met with Arlo to discuss the fence issue. Arlo agreed that Leon should build a fence between their properties. Leon explained to Arlo that he wasn't sure of the location of the line between their properties and offered to walk the property line with Arlo so they could agree on where the fence should go. Arlo declined, saying he trusted Leon to put the fence in the correct place. Leon immediately hired FenceCo to build a barbed wire fence between his property and Arlo's. Leon incorrectly identified the property line and had the fence built in the wrong place. FenceCo built the fence 100 yards to the west of the correct property line, encroaching on Arlo's property. The fence was visible from Arlo's home.

Leon successfully operated his ranch until he fell ill in 2001. He decided to sell his ranch to Woody. Leon executed a Quit Claim Deed to Woody for the 200 acre ranch. The legal

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description on the Quit Claim Deed did not include the 100 yards to the west of the correct property line that was enclosed by the fence. Woody purchased the property and cattle and continued operating the ranch until the summer of 2012. Drought conditions and the rising price of hay caused Woody to sell all the cattle on his ranch. He decided to use the money from the sale of the cattle to convert his property into a MotoCross track over the west end of his property, right next to the fence between his property and Arlo's property. Woody's MotoCross track was a success and immediately drew riders from Oklahoma, Arkansas, Missouri and Kansas. Riders trained on his track from dawn until dusk seven days a week.

Arlo, still the reclusive artist, was furious. His once quiet home was now filled with the sound of dirt bikes every waking hour of every day. For the first time since the fence was built between the two properties, Arlo left his house to inspect Woody's MotoCross track. Arlo immediately knew that the fence had been built in the wrong place and that Woody's MotoCross track was actually on his property. The following day Woody received a letter from Arlo's attorney informing Woody that his MotoCross track was on Arlo's property and demanding the track be closed and the property returned to Arlo.

Woody wants you to represent him in the property dispute with Arlo. Address the following in your meeting with Woody:

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- A. Explain the elements required to obtain property by adverse possession.
- B. Explain the elements required for the fence to become the boundary by acquiescence.
- C. Explain how your analysis is affected by whether or not Woody knew that he was encroaching on Arlo's property.
- D. Explain how your analysis is affected by whether or not Leon intended to encroach on Arlo's property when he built the fence.
- E. Explain which act commenced the running of the statute of limitations for Woody to obtain the property by adverse possession.
- F. What type of lawsuit can Woody bring to obtain the property? Who bears the burden of proof in the suit? What is the standard of proof? Is there a right to a trial by jury?
- G. Assume for this subpart only that Arlo is successful. Explain whether Arlo can force Woody to restore his property to its original condition or recover damages.

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Mike is married to Molly. Mike and Molly had 2 children together, Andy and Brian. They also later adopted a third child, Cara. Molly has a child from a previous relationship named Daisy.

Mike hand wrote a will on a napkin a week before he died. In it, he left nothing to his wife, Molly, "as her parents are wealthy and will provide for her." He also directed that his Apple stock be sold and from it a legacy of \$10,000 be given to his church. Additionally, he left "the sum of \$10,000 to my friend, Zach". Finally, he devised and bequeathed the residue to "my children, Andy and Brian, per stirpes." No mention was made of Daisy or Cara.

When Mike died, he owned in his name the home where he and Molly lived. It had been his parents' home before him. He also had \$100,000 in a joint account with Molly. Lastly, he had a \$300,000 C.D. in his own name. It turned out the Apple stock he wrote of had been sold almost a year prior to his death.

Mike and Molly's son, Andy, died in a car accident with Zach five days before Mike died, and left two children, Harry and Fred. Mike's friend Zach also died in that accident and left a son.

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Questions:

- A. Is the will is valid? Explain your answer.
- B. Assume for this subpart only that the will is valid. Who will be awarded what portions of the estate, and why? Explain your answer.

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Tom and Steve have an idea for a new product and business. Steve was the genius behind the idea and Tom possesses the business acumen. Tom is from Tulsa, Oklahoma. Steve is from Altus, in Jackson County, Oklahoma. Tom is twenty-five (25) years old and Steve is twenty seven (27) years old.

Steve has invented an automatic dog washer that you simply plug in and watch it do the work. Tom graduated from Podunk University at the very bottom of his class but thinks he knows how to market the automatic dog washer. Specifically, Tom plans to put the automatic dog washers in kiosks in local malls and do demonstrations all day long. Additionally, Tom wants to give free washers to a select few veterinarians and pet shops to try to get endorsements.

Steve wants to start the business immediately as a “mom and pop” store (i.e. a sole proprietorship or simple partnership). But Tom, being the elite entrepreneur that he is, wants to be sure to limit their liability. On select “few” occasions, the automatic dog washer has actually stripped all the hair off of the dogs.

The name of the automatic dog washer will be the “Canine Car Wash”. The business owners will be Tom and Steve. In fact, they will be joint and equal co-owners.

The two young men have decided to form a limited liability company in Oklahoma. Steve wanted to hire an attorney to “do the paperwork” but Tom convinced Steve that lawyers were “unnecessary” and would only take their money for “nothing”.

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Questions:

- A. To begin a limited liability company what must Tom and Steve file?
- B. If Tom and Steve figure out what must be filed to begin a limited liability company, where do they file it?
- C. Assume for this subpart only that the limited liability company started by Tom and Steve does not establish two or more series of members, managers or membership interests having separate rights, powers or duties. Assume also that Tom and Steve can figure out what must be filed to begin the limited liability company. What are the required contents of the commencement instrument?
- D. Assume for this subpart only that the limited liability company started by Tom and Steve does in fact establish two or more series of members, managers or membership interests having separate rights, powers or duties. What are the additional requirements of the commencement instrument?
- E. What words or abbreviations must be in the company name that Tom and Steve select?
- F. Identify and describe at least three events or circumstances pursuant to Oklahoma statutory law that will cause or result in the dissolution of a limited liability company.

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In the year 2000, a Scientist living in the State of Oklahoma invented a procedure for converting red dirt into fuel for vehicles that causes no harm to automobiles and burns much cleaner than any other alternative fuel available. As a result, a “Red Dirt Rush” consumed the State of Oklahoma, which is the only state in the Union with commercial supplies of red dirt. Consequently, little to no farming takes place within the state. Several out-of-state corporations come into Oklahoma and take red dirt to their refineries located in other states depleting Oklahoma’s red dirt.

In light of the Red Dirt Rush, the Oklahoma Legislature decides that the state should participate in this new business and creates a state-owned company named Red Dirt of Oklahoma. In addition, the State Legislature is forced to create emergency legislation since red dirt as fuel has never been addressed at the federal level. A significant portion of this new legislation addresses foreign corporations, preventing them from removing red dirt to refineries outside of the State of Oklahoma because of the severe environmental impact caused to the state by the stoppage in farming.

An out-of-state corporation challenges the new legislation. How should the court rule on the challenge? Explain your answer.

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The Book Place, a small book store owned by John Williams, buys books from Outdoor Publishing and typically orders 100 copies of a title at a time. Sam, a representative of Outdoor Publishing, called Williams to inform him that they were expecting a new book on camping to be very popular. Sam offered to have the book on their shelves by August 1st, a full month before the big chains would receive their first shipment. Near the end of their phone call, Williams ordered 20 copies of the book, less than his usual order of 100, at a price of \$20 per book.

Three days later, Sam happened to be in town and came to see Williams. During the visit, Williams decided to increase his order to his usual size of 100 books. William's assistant manager Kevin was present and also took part in the conversation.

The next day, Sam sent a fax to Williams confirming the order. Unfortunately, Sam misread his notes from their meeting and stated on the confirming fax that The Book Place was buying 200 books. Williams received the fax, but didn't read it.

When 200 books arrived instead of 100, Williams finally read the fax, which was by then 14 days after the fax was sent, and realized why he received so many books. He immediately called Outdoor Publishing and asked for Sam, but was informed Sam had just been terminated for giving special treatment to small stores like The Book Place. Williams tried to explain to Johnson, Sam's replacement, what had taken place but Johnson would not budge and demanded that Williams honor the contract as confirmed in the fax. Kevin even called Johnson to explain

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that the order was only for 100 books and informed Johnson that was their typical order size, but Johnson wouldn't change his mind.

Question A: Did the parties have a deal? If so, what are the terms of their deal, and the respective rights of the parties? Explain your answer.

Williams also deals with another publisher, All About Travel, from whom he ordered 1000 travel related books that were to be delivered by December 1st. The books were to be evenly assorted between 4 destinations: Florida, Mexico, the Caribbean, and Europe. All of these were prime spring break and or summer vacation spots.

The books were received on November 15th but, upon inspection, Williams discovered that the books were not as ordered. All About Travel had sent books on vacation spots on the Mexican Pacific Coast and Mexican Gulf Coast, not Mexico in general. Also, they had sent books about vacations in Orlando, Miami, and the Florida Keys, not Florida in general. The publisher had sent these as replacements since the supply of books on Mexico and Florida in general were temporarily low due to orders from the large chain stores. All About Travel had substituted books in the past for Williams, if they were reasonably related to the vacation spots

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he requested, without any problem. The books on the Caribbean and Europe were just as Williams ordered.

Williams didn't think the replacements were reasonable and wanted out of the entire deal because sales had been slow. The very next day, he returned the entire shipment to All About Travel with a note simply stating "I want a full refund."

On receipt, the All About Travel representative called Williams and explained they were temporarily out of books on Mexico and Florida when the order was originally filled. However, they could now meet the order in full. He offered to take back all the books Williams did not want and to replace them with an overnight shipment of the corrected books. Williams refused and demanded a refund of his full purchase price.

Question B: What are the respective rights of the parties to this transaction? Explain your answer.

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The Oklahoma Department of Consumer Credit regulates the licensure of pawnbrokers. John operates a pawn shop in Oklahoma City, Oklahoma. On October 26, 2012, he received the following notice from the Administrator of the Oklahoma Department of Consumer Credit:

You are hereby notified that, pursuant to the terms of the State regulations of the Oklahoma Department of Consumer Credit pertaining to the licensing and regulating of pawnbrokers within the State of Oklahoma, the Administrator of the Department will hold a public hearing in the State Office Building, Oklahoma City, Oklahoma at 10:30 a.m. on Friday, November 1, 2012, to determine whether or not the pawnbrokers license previously issued to you pursuant to the terms of said regulations should be revoked because of violations of the regulations governing the operation of pawnbrokers. At said time and place you may appear and show cause, if any you have, why said license should not be revoked.

John, represented by counsel, appeared at the public hearing at the appointed time. Before the proceedings began, his attorney objected to lack of notice to John as to specific violations of the regulations. The attorney requested a bill of particulars or that he at least be orally advised as to what violations were incurred by John. The request was denied by the Administrator who stated this would be pointed out by persons speaking for revocation of John's pawnbroker's license.

The Administrator requested that all formalities of a court of law be eliminated and simple statements of fact be presented with "no calling of witnesses, cross-examination, etc." The attorney was not permitted to object to non-probative or incompetent matters or to cross-

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examine the Administrator's witnesses. With these formalities thus being dispensed with, the hearing proceeded. The Administrator ruled to revoke John's license.

Questions:

- A. Did the Administrator exercise quasi-judicial powers when he revoked John's pawnbroker's license? Explain your answer.
- B. Was John given sufficient notice of the administrative hearing with regard to his pawnbroker's license? Explain your answer.
- C. Did the Administrator's ruling violate John's right to procedural due process? Explain your answer.

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Cain is a young lawyer who obtained his bar license less than two years ago. He is employed by the Oklahoma law firm of Brooks, Westbrook and Durant (BWD), and supervised by Ethan a junior partner at BWD. Cain has a legal assistant, Kassie, who has worked for the firm for ten years. Cain is assigned the divorce case of Heather, who is divorcing her husband, Julian, a local physician. Heather seeks full custody of the couple's minor child as well as a substantial sum of alimony and half the marital estate. Cain is eager to accept the case since Heather is his high school sweetheart and he is still very much enamored with her. Cain does not disclose to anyone his previous relationship with Heather.

During their first consultation, Cain and Heather discuss the marital estate, the amount of alimony sought and the reasons for the divorce. Heather says that she lives in the marital home with the minor child, and Julian has moved out to a nearby apartment. Heather tells Cain that Julian had an affair, which led to the divorce. She also tells Cain that she is concerned that Julian will attempt to have his new girlfriend around the minor child. The meeting concludes at the end of the business day, and Cain suggests that he and Heather have dinner that evening to discuss the case and to "catch up". Heather eagerly agrees. As Cain leaves the office, he tells Kassie to start preparing the Divorce Petition and associated paperwork which he will sign and file the next morning.

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Cain arrives a short time later at a local restaurant where he and Heather eat, share a bottle of wine and remember old times. Heather tells Cain that the last few years have been tough, and that she copes with the stress of her husband's abuse and affairs with alcohol and prescription drugs. Cain tells her he can use her husband's abuse and his adulterous affair against him in Court and will get her custody of the child as well as a sizeable settlement.

At the conclusion of dinner, Heather asks Cain to spend the night with her. Cain follows Heather back to the marital home where they spend the night together drinking wine and rekindling their high school love affair.

The next morning, Cain witnesses Heather become cross with the minor child and strike her in the face. Cain says nothing about the incident, tells Heather he will file the Divorce Petition that day, and leaves for the office. When Cain arrives at BWD he signs the Divorce Petition prepared by Kassie, but he does not review it. As he heads out the door for a complex trial that will take all day, Cain tells Kassie to file the Petition that day and to call him if anything comes up. Kassie files the Petition and sets a hearing date.

A few hours later, Kassie receives a call from an upset Heather who tells Kassie that she has been served with papers which seek to give Julian full emergency custody of the minor child. The attached affidavit indicates that a private investigator hired by Julian followed Heather the night before and details not only the dinner she and Cain had the night before, but also the

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conversation she and Cain had at dinner as well as the fact that Cain spent the night with Heather and the minor child. On her own accord, Kassie tells Heather that “anything said between you and Cain is privileged” and that the “paperwork is not legal”. Kassie further advises Heather to hide the minor child and flee the marital home until Cain can work something out. Heather complies with Kassie’s instructions. Meanwhile, Cain is served at the Courthouse with a subpoena to testify about all the issues in the divorce case between Heather and Julian.

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

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

You are the judge presiding over the trial of a negligence claim brought by Patrick against David for injuries resulting out of an automobile accident. During the trial, Patrick's attorney calls Tom to testify on his behalf. Although the driver of the ambulance talked to both parties on the night of the accident, she is not a witness or party to the case. Tom is a long time friend and business partner of David. The questioning proceeded as follows by Patrick's attorney:

Q (question) State your full name.

A (answer) Thomas Henry Smith.

Q State your occupation.

A Contractor.

Q State what you observed about David's condition the night of the accident.

A I really couldn't tell you, I just don't remember.

Q Had David been drinking alcoholic beverages that night?

A I believe I remember him having one.

Q One, or more like ten or twelve?

A I remember at least one.

Q Your lack of memory is awful convenient, isn't it? Do you still remember your name?

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Defense Counsel: Objection.

Question A. What are the grounds for this Objection and should it be sustained?

Explain your answer.

Q What is your relationship to David?

Defense Counsel: Objection, Irrelevant and Plaintiff is attempting to impeach his own witness.

Question B. Is the Objection valid? Explain your answer.

Q In fact, you previously stated that David had staggered to the car right before the accident, didn't you?

Defense Counsel: Objection.

Question C. What are the grounds for this objection, if any? Should the objection be sustained? Explain your answer.

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Q Do you recall what David said about his condition that night?

Defense Counsel: Objection, hearsay.

Question D. Is the Objection valid? Explain your answer.

Q Do you recall what the ambulance driver said about what David had told her about his condition that night?

Defense Counsel: Objection.

Question E. What are the grounds for this objection, if any? Should the objection be sustained? Explain your answer.

Q Isn't it true that you were convicted of a felony twenty years ago?

Defense Counsel: Objection.

Question F. What are the grounds for this objection, if any? Should it be sustained? Explain your answer.

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Rider owns Rider's Bike Shop, Inc. which operates a bicycle shop in Fitness, Oklahoma. He noticed an increased interest in cycling, and decided it was time to expand his inventory and make some improvements to his shop to entice new customers. Rider's Bike Shop obtained a \$100,000 loan from First Fitness State Bank to make some improvements. As collateral for the loan, the Bank had Rider, as the authorized representative of Rider's Bike Shop, sign a security agreement giving it a security interest in all of Rider's Bike Shop's inventory currently owned or acquired in the future, and all proceeds therefrom. First Fitness State Bank filed a financing statement covering this inventory with the Oklahoma County Clerk's office on May 1, 2011.

Rider's Bike Shop, Inc. also purchased 80 popular fold-up bikes from Bob's Biking Innovations, a wholesale bicycle company, on credit for \$400 each, and signed a security agreement giving Bob's a security interest in its inventory (but not specifically in after acquired inventory or proceeds). Bob's Biking Innovations filed a financing statement covering these bikes with the Oklahoma Secretary of State on April 1, 2011 and Bob took delivery of the fold-up bikes on April 15, 2011.

Rider also needed some extra space to store some of the new inventory he was purchasing for Rider's Bike Shop, so Rider's entered into a four year lease with Sam's Storage, Inc. on May 1, 2011.

Business went well for Rider's Bike Shop for a while, and it sold a number of bikes to consumers at fair market value. Unfortunately, a recession hit and the business of Rider's Bike

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Shop dropped off significantly. By May 1, 2012, Rider's had only sold 20 of the fold-up bikes, and Rider's had \$75,000 in assets (including 60 fold-up bikes with a value of \$24,000 and \$26,000 in other inventory) and \$125,000 in liabilities, including \$75,000 still due to First Fitness State Bank, \$25,000 still due to Bob's Biking Innovations and \$25,000 due to five unsecured creditors whose individual claims were all less than \$5,000. Rider's Bike Shop was significantly in default in payments to all of its creditors, and Rider decided to call it quits and file a voluntary Chapter 7 bankruptcy.

Questions:

- A. Does Rider's Bike Shop, Inc. qualify for a voluntary Chapter 7 bankruptcy? Could an involuntary bankruptcy petition be filed against Rider's Bike shop, Inc. in this situation? Explain your answers. (25 points)
- B. Assuming a Chapter 7 bankruptcy filing is permitted, what are the relative rights of First Fitness State Bank and Bob's Biking Innovations to the inventory of Rider's Bike Shop? What are their relative rights in the proceeds from the sale of the inventory? Will either of them be able to recover inventory sold to Rider's customers for fair market value before the filing of the bankruptcy? Explain your answers. (65 points)
- C. In the bankruptcy, what rights will Sam's Storage, Inc. have in connection with the lease it signed with Rider's Bike Shop? Explain your answer. (10 points)

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In 1991 Dolly Mullins, a widow, was contacted by a financial planner named Big Money. Big Money was not an attorney, but he gathered information from Dolly for estate planning purposes. The information provided by Dolly to the financial planner was used by Big Money to draft the following estate planning documents.

1. Last Will and Testament
2. Durable Power of Attorney (Financial/Property)
3. Durable Power of Attorney (Healthcare)
4. Oklahoma Advance Directive for Health Care (Living Will)

Big Money emailed the above estate planning documents to his attorney friend, Glen Golden, for review. Glen Golden emailed Big Money back stating that the estate planning documents were fine. Thereafter, on August 26, 1991, Big Money brought the estate planning documents to Dolly's home for her review and signature. Dolly's neighbors, Frank and Audrey Morris, came to Dolly's house to serve as witnesses. The financial planner had brought a notary with him.

In September of 2010, Dolly was hospitalized with a brain tumor. Dolly's only grandchild, Jessica, had been caring for her before Dolly was hospitalized. While Dolly was in the hospital, Jessica had found a leather bound estate planning notebook in Dolly's closet. Jessica discovered that all of the documents had been signed by Dolly and witnessed and

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notarized, except for the Last Will and Testament. The Last Will and Testament had been witnessed and notarized, but not signed by Dolly. The Last Will and Testament stated that Dolly had two children, Jon and June, and one grandchild, Jessica. The Will named Jessica as personal representative of the estate. The Will left Jon and June each \$1 and left the rest and remainder of the estate to Jessica.

Upon discovering that the Will had not been signed by Dolly, Jessica called the attorney, Glen Golden, whose name was listed among the documents in the leather bound estate planning notebook. Jessica told Glen Golden that Dolly was in the hospital with a brain tumor and had only days to live, that the Will had not been signed by Dolly, and asked him what she should do. Glen Golden told Jessica to have Dolly sign the Will as soon as possible.

On September 10, 2010, Jessica went to the hospital and tried to get Dolly to sign the Will. Dolly attempted to sign the Will, but the signature on the Will was not legible. No one was present when Dolly signed the Will except for Jessica. Dolly passed away at 12:01 p.m. September 11, 2010.

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Questions:

- A. If Jessica attempts to have the Will admitted to probate and be appointed personal representative, and Jon and/or June object, will Jessica be successful? Explain your answer.
- B. What ground(s) do Jon and/or June have to object to the Will being admitted to probate? Explain your answer.
- C. Assume for this subpart only that the Will is not admitted to probate. Who should be appointed as personal representative of the estate, and how should the estate be distributed? Explain your answer.
- D. Assume for this subpart only that the Will is admitted to probate. Who will be responsible for filing an estate tax return and payment of estate taxes, if any? Explain your answer.

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Adam and Bill were close friends and college roommates. During their sophomore year, Adam began dating Cara. After three semesters, Cara broke it off. Two months later, when Adam found out that Bill and Cara were engaged, he sent them an angry letter and never spoke to either of them again. Shortly after graduation, Bill and Cara were married.

After a year of marriage, Bill committed suicide. Before doing so, Bill mailed \$1,000 in cash, his last diary and a suicide note to Cara's mother, Dorothy. In the suicide note, Bill requested Dorothy deliver \$500, his last diary and his suicide note (or a copy thereof) to both Adam and Cara after ten years.

Five years later, Adam is contacted by an attorney, Mrs. Zambezi, who informs him that she represents Dorothy's estate. In her will, Dorothy bequeathed to Adam: a) \$500; b) Bill's last diary; and c) Bill's suicide note. Cara has been appointed personal representative of her mother's estate. Mrs. Zambezi explains that she will send Adam a check for \$500 when she distributes the estate's property, but tells him in a woeful and reluctant tone: "I'm sorry, but Cara will never let you have that diary and note. And if you try, I guarantee you she will burn them in her fireplace just to make sure. It may not be fair, but I'm just telling you."

Adam desperately wants to read the documents. He retains an attorney, Mr. Youngblood, to handle the matter. Mr. Youngblood suggests that, because they cannot risk filing normal legal

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process to enforce the terms of the will, he will have to “get creative”, and will contact Adam in a few days with his plan of action.

Without informing Adam, Mr. Youngblood has his legal assistant create a false profile named Chimera on a popular social networking internet site and “friend” Cara. Within days, Cara and Chimera become fast friends and begin exchanging private messages. Shortly thereafter, Cara confides to Chimera that she has been sleeping with her boss during working hours on company premises. Mr. Youngblood sends copies of the private messages directly to Cara, along with a letter which cautions her to tender the diary and note, otherwise he will send copies of the private messages to her company’s HR department. Cara immediately mails the diary and note to Mr. Youngblood.

Mr. Youngblood calls Adam into his office and presents him with the diary and note. Adam, delighted, asks how Mr. Youngblood resolved the matter so quickly. Mr. Youngblood leans back in his chair, puts his feet up on his desk, and drawls: “I told you it would take a little cre-a-tivity. Well son, let’s just say I got real cre-ative.”

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

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The Sheriff's Offices of Smith and Jones Counties have been having real problems with theft of four-wheelers in both counties so they decide to set up a sting operation to catch the thieves.

The Smith County Sheriff's Office arranges to provide a four-wheeler worth about \$400 and the Jones County Sheriff's Office agrees to provide a trailer worth about \$350. The four-wheeler and trailer were each equipped with a tracking device, and the four-wheeler was secured to the trailer with tie downs provided by the Smith County Sheriff's Office. Once the trailer was placed on a vacant lot near a rural highway in Smith County, the sting operation was set.

Albert, Billy and Carl are together in a pickup and pass by the location of the four-wheeler and trailer shortly after the sting operation is set up. They did not stop at that time, but came back later, hooked up the trailer with four-wheeler to the back of Carl's pickup and drove off.

A few miles down the road while still in Smith County, the three men stopped, unloaded the four-wheeler and hid it in some tall weeds just off the side of the roadway. They then took the trailer and tie down straps to Albert's house in Jones County.

As planned, when the trailer began to move, the tracking device was activated and authorities in both counties began tracking the trailer and the four-wheeler. Deputies from both counties located and recovered the four-wheeler which was hidden in Smith County and also located and recovered the trailer and tie down straps which were located at Albert's house in Jones County.

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Each of the three men was interviewed before any of them were taken into custody. Each admitted to the larceny of the trailer, four-wheeler and tie down straps in Smith County, the concealing of the four-wheeler in Smith County and the concealing of the trailer and tie down straps in Jones County. They also each inculpated the other two.

The Sheriffs of both Smith and Jones County come to you as the newest and lowliest prosecutor in Smith County and ask for your advice.

Questions:

- A. What charges, if any, can be filed against Albert, Billy and Carl in Smith County? Explain your answer.
- B. What charges, if any, can be filed against Albert, Billy and Carl in Jones County? Explain your answer.
- C. Are the statements made by each Defendant admissible against them? Does the Miranda warning apply to the statements made by the Defendants? Explain your answers.
- D. Can the statements of any one Defendant, which inculpates the other two, be used against them? Explain your answer.
- E. Does the monetary values of the stolen property have any bearing on the charges you can file in either or both counties? Explain your answer.

QUESTION NO. 13 (Page 1 of 3)

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

Husband (age 39) and Wife (age 35) have been married 9 years. Both are in good health. They have 2 children, ages 5 and 7. They bought a home shortly after their marriage and jointly paid off the mortgage during their first two years of marriage. Husband owned a successful construction business prior to the marriage and continues to operate the business. Wife has a law degree, had a successful law practice prior to the birth of her first child at which time she gave up all of her interest in the practice, and has been a stay-at-home mom since that time. She created and maintains a website for the construction business. Occasionally, she gives Husband legal advice regarding the construction business.

Wife's well-to-do parents have been sending money and gifts to Wife for years. Wife opened an individual savings account in her own name and placed her cash gifts in the savings account. From time to time, she has withdrawn money from her savings account to "splurge" on herself, Husband or the children. One time she even made a substantial interest free loan to Husband's business during a slump in the construction business. Husband knew the source of the loan. This cash infusion saved the business, and the business has repaid the loan in full. Wife deposited the loan payments from the business into her individual savings account. The business has prospered. Wife's savings account has grown with continued gifts from her parents and minimal interest.

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

During the marriage, Husband was unfaithful. When Wife learned of the infidelity, she asked Husband to move out of the marital home. He did so for 9 months. During this period, Husband paid all expenses of the household, including \$1,000 cash per week in the event Wife or the children needed anything. Husband and Wife reconciled. Husband moved back into the marital home. On the day Husband moved back home, Wife presented him with a handwritten agreement, listing "conditions" for continuing the relationship. In the event the reconciliation was not successful and they divorced, Husband would (1) pay wife \$1,000 per week for 5 years, (2) pay \$1,000 per week per child for child support until they reached the age of 23 or graduated from college, whichever came first, (3) allow Wife to keep the marital home, and (4) assign to Wife a 25% ownership interest in the construction business. Husband was remorseful, agreed to the conditions, and signed the agreement.

The reconciliation lasted for 2 years. Wife was unfaithful and filed for divorce. Wife wants all the money in her individual savings account and wants to enforce the agreement Husband signed 2 years ago. Husband has decided to contest all of Wife's demands. Husband and Wife have agreed upon custody and child support issues.

QUESTION NO. 13 (Page 3 of 3)

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

Questions:

- A. Will Wife be allowed to keep all the money in her individual savings account?
Explain your answer.
- B. Is the agreement that Husband signed enforceable? Explain your answer.
- C. Assume for this subpart only that the agreement is not enforceable, will Wife get alimony? Explain your answer.
- D. Assume for this subpart only that the agreement is not enforceable, is Wife entitled to an interest in the business? Explain your answer.

QUESTION NO. 14 (Page 1 of 2)

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

On January 1, 2011, John Doe, a Louisiana resident, was a passenger in a vehicle driven by Bill Smith, an Oklahoma County, Oklahoma resident. Smith was the owner of the vehicle. Doe and Smith were riding on a country road near Shreveport, Louisiana. When Smith attempted to stop at a stop sign, the brakes on his car failed and the vehicle struck a tree, injuring Doe severely. The day of the accident, Smith had replaced the brake pads on his vehicle at Doe's residence in Shreveport. Unfortunately, the brake repair job performed by Smith was not done properly. Smith's defective brake job was the sole cause of the accident.

The State of Louisiana has a statute of limitations for negligence actions of one year from the date of the negligent act. Smith had no motor vehicle liability insurance in place at the time of the accident. Doe did not consult an attorney until more than one year after the date of the accident.

Oklahoma has a two year statute of limitations for negligence actions. Doe's attorney needs to have Oklahoma law applied to the case, since the application of the Louisiana statute of limitations will more than likely bar the prosecution of the case. So, Doe brought suit in Oklahoma County District Court on December 1, 2012, against Smith alleging negligence. Smith was properly served with summons.

You are the judge assigned to the case. For purposes of this question, assume that jurisdiction and venue of this action is proper in the District Court of Oklahoma County. Smith

QUESTION NO. 14 (Page 2 of 2)

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

has filed a motion to dismiss the case with prejudice, contending that the action is barred under Louisiana law due to the fact that the suit was brought more than one year after the date of the accident.

Questions:

- A. Under Oklahoma choice of law provisions/rulings, should the Oklahoma or the Louisiana statute of limitations law be applied in this case? Explain your answer and describe the legal effect your answer has on the case.
- B. Notwithstanding your answer to subpart A above, if Doe had brought suit against Smith in a State Court of Louisiana in a timely manner and successfully obtained a money judgment against Smith, would Doe be able to have the Louisiana judgment recognized and enforced in the State of Oklahoma by an Oklahoma court? Explain your answer.
- C. Assume for this subpart only that Doe is allowed to have the Louisiana judgment (from subpart B above) recognized and enforced in Oklahoma. Describe the procedural process that Doe would use to accomplish that task.

QUESTION NO. 15 (Page 1 of 1)

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

Martin holds a commercial driver's license issued by the State of Oklahoma. He was recently employed by Ace Trucking as a long haul freight driver, making the round-trip run from Oklahoma City, OK to Los Angeles, CA. Ace Trucking is an appropriately organized and registered corporation existing under the laws of the State of Oklahoma.

Martin was told by Johnson, the owner of Ace Trucking, to get his truck and trailer (holding cargo) to Los Angeles as soon as possible. Both the truck and trailer belong to Ace Trucking. The cargo belongs to the company in Los Angeles.

Martin starts the trip at 10:00 a.m. on day 1, arriving in Los Angeles in the afternoon on day 4. Martin averaged driving for eight hours before stopping and resting for two to three hours.

Martin made a number of stops for food and fuel and twice had to purchase tires and have them mounted on the trailer. Martin also stayed in a motel every sixteen to eighteen hours during the trip.

All purchases, including food, fuel, tires, service and motel were made on vouchers payable by Ace Trucking.

Since no direct instructions were given to Martin, is Ace Trucking liable for any of the charges? Explain your answer and insure that all issues presented by the above facts are covered.

QUESTION NO. 16 (Page 1 of 2)

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

Adam and Bill are both candidates for the vacant city counsel position. Adam wanted to look dapper for the debate against Bill that evening, so he drove across town to the Bargain Barn to look for a new suit. To his amazement he found a red suit just his size, snatched it off the rack, and headed for the fitting room to try it on. Bill, who was also at the Bargain Barn, saw Adam go into the fitting room. Bill determined that he would win the debate if Adam did not show up. Bill stacked several large and heavy boxes against the fitting room door so Adam could not get out and appear at the debate. After paying for his clothes, Bill turned and dashed for the exit. Seth Security Guard, a paid employee of Bargain Barn, saw Bill running out the door and mistakenly thought he had stolen the items in his possession. Seth chased after Bill through the parking lot yelling loudly, "Stop you no good rotten thief! I will not let you steal from this store and get away with it!" The crowd outside of the store gasped in horror upon hearing this statement, believing that Bill had stolen from the store and therefore lacked moral character. When Seth caught up to Bill, he smashed him over the head repeatedly with his night stick. Bill fell to the ground in a bloody heap, unconscious. Seth kicked him a few more times for good measure.

Meanwhile, Parker Patron, an innocent bystander in the store, heard Adam banging on the door. Parker ran over to remove the boxes and release Adam. When Adam emerged from the fitting room his eyes were wild with anger. Believing Parker was the one who locked him in

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

the fitting room, Adam balled up his fists, gritted his teeth, and headed towards Parker shouting “You are going to pay for locking me in that room! I am going to punch your lights out!” Parker’s friend, Frank, saw the threatening look on Adam’s face and charged at Adam, knocking him to the ground.

What are the causes of action and defenses each of the parties below may make, and what is the likely outcome? Explain your answer, detailing the elements of each cause of action and defense:

- A. Adam’s claims against Bill
- B. Bill’s claims against Seth Security Guard
- C. Bill’s claims against Bargain Barn
- D. Parker’s claims against Adam
- E. Adam’s claims against Frank
- F. Seth’s defenses
- G. Frank’s defenses