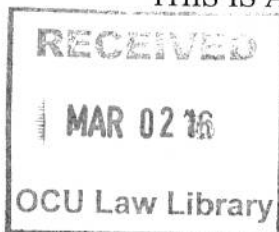


QUESTION NO. 1 (Page 1 of 2)

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



You just started a new law practice when Natalie comes into your office and asks you to represent her. Natalie's husband, Thomas, was killed 22 months ago in a traffic accident which occurred in Tulsa County, Oklahoma when a semi-truck crossed the center median on Interstate 44 and hit him head-on. They were just married the day before the accident and lived in Oklahoma County, Oklahoma. Natalie has filed a probate action and has been named as Personal Representative of Thomas's estate.

Thomas was previously married to Gloria. He was behind in his alimony payments to Gloria at the time of his death. Gloria has informed Natalie that she will not authorize any legal action until Natalie either brings the alimony payments up to date or agrees to name Gloria as a plaintiff in any lawsuit. Thomas had no children. It is undisputed that he owed \$10,000 to Gloria at the time of his death.

The accident report showed that the driver of the truck, Freddie, was a resident of Dallas, Texas and the trucking company, Super Quick Trucking, was owned and operated by JC, Inc., a corporation which was headquartered in Fort Worth, Texas.

The accident report also shows that another vehicle being operated by Jones may have slightly contributed to the accident. Jones resided with his wife in Lincoln County, Oklahoma at the time of the accident. They have since divorced and Jones now lives in Osage County, Oklahoma.

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QUESTION NO. 1 (Page 2 of 2)

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

Questions:

- A. Name each potential plaintiff and explain why that person or entity should be a plaintiff.
(20 points)
- B. Name each potential defendant and explain why that person or entity should be a defendant. (20 points)
- C. Can a lawsuit be maintained in Oklahoma state court against each of your potential defendants? If so, where does venue lie? Explain your answer. (20 points)
- D. Can the lawsuit be maintained in federal court? Explain your answer. (20 points)
- E. For this subpart only, assume that (1) Natalie is a plaintiff and (2) she believes that Thomas being behind on his alimony will reflect poorly against her or Thomas, and may be used against her in front of the jury. She believes she can get caught up on the payments in 6 months. Natalie wants your opinion on whether to get current on the alimony before filing the lawsuit. What should you tell her? Explain your answer.
(20 points)

QUESTION NO. 2 (Page 1 of 2)

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

Harry married Wendy in 1991 and they had two children born of that marriage, Dorothy and Sam. After the birth of his second child, Harry was diagnosed with cancer. This diagnosis prompted Harry to meet with his attorney to discuss estate planning. Harry's attorney drafted a will bequeathing his entire estate to Wendy. In the event Wendy predeceased Harry, his estate was to be distributed equally between Dorothy and Sam. Harry's will named Wendy as the personal representative of his will. In the event Wendy predeceased Harry, Dorothy was named as personal representative. Harry's prognosis was grim. While in the hospital, Harry's attorney came to the hospital to go over the will with Harry. After reviewing the will, Harry signed it. The will was also witnessed and signed by two of Harry's nurses.

Harry's cancer went into remission and he made a full recovery. Unfortunately, Wendy died two years after Harry executed the will. Harry later married Susan who already had one child, Adam. Harry adopted Adam and the five of them (Harry, Susan, Dorothy, Sam and Adam) lived together as a family. After they were married, Harry told Susan about his will and stated that he intended to write a new will leaving everything to her. One year later, Harry died without executing a new will. At the time of Harry's death, two of the children were minors. Prior to his death, Harry purchased a \$500,000 life insurance policy naming Dorothy, Sam and Adam as equal beneficiaries.

Susan found Harry's will and came to your office for a consultation.

QUESTION NO. 2 (Page 2 of 2)

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

Questions:

- A. Was Harry's will validly executed? Explain your answer identifying all the requirements for the execution of a will in Oklahoma and explain whether each requirement was met.
- B. Will Harry's will be admitted to probate? If so, what is the procedure for probating Harry's will? What issues might exist regarding the will under these facts? Explain your answers.
- C. Who should be appointed as the Personal Representative of Harry's will? Explain your answer.
- D. If the will is admitted, what rights could Susan assert regarding the administration and distribution of Harry's estate? Could any rights be asserted for Adam? If so, what? Explain your answer.
- E. If Harry's will is probated, assume all available rights are asserted for each member of Harry's family. What will each person (Susan, Dorothy, Sam and Adam) receive? Explain your answer.

QUESTION NO. 3 (Page 1 of 2)

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

On the first Thursday of the 2015 NCAA basketball tournament, Doug Heffernan spent most of that afternoon at a bar in New Jersey watching his favorite college team, the Long Island Blackbirds. Heffernan was an IPS delivery driver and he drove his delivery truck to the bar. The bartender that served Heffernan was a good friend and he personally served Heffernan three pitchers of beer that afternoon. Before Heffernan left the bar to complete his deliveries, the bartender discouraged Heffernan from driving due to his high level of intoxication, and offered to call a cab to take him home. Heffernan declined the offer and left the bar in his delivery truck.

A few hours later, while traveling back to the IPS distribution center to park his delivery truck for the evening, Heffernan passed out from intoxication. His delivery truck then careened into a school bus that was transporting a high school jazz band from Scranton, Pennsylvania. Will Schuster, the bus driver and very popular coach of the jazz band, was the only occupant of the bus that was injured and he suffered a fractured neck and was paralyzed. This accident occurred just after Heffernan crossed the Goethals Bridge and entered New York.

Both the states of New Jersey and Pennsylvania have Dram Shop Acts that impose liability on the vendor of alcohol if a drunken customer injures another. The state of New York has no such law. Also, Pennsylvania has enacted tort reform measures that limit non-economic damages to \$250,000. The states of New Jersey and New York have no caps on damages. Schuster, a resident of Pennsylvania, believes that it would be advantageous to bring a suit for

QUESTION NO. 3 (Page 2 of 2)

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

his injuries in Pennsylvania because of his celebrity status in the local community. Shuster has now hired you to represent him.

Questions:

- A. Identify the possible forums in which a suit could be successfully brought. Explain your answer.
- B. Describe for Schuster what forum's substantive laws should be applied concerning laws such as vicarious liability, damages, and Dram Shop liability. Explain your answer.

QUESTION NO. 4 (Page 1 of 3)

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

In order to help fight the obesity epidemic and help people live longer and more productive lives, Bob Fitness decided to start a fitness equipment and supply business. He created a new Oklahoma corporation, Fitness Training, Incorporated (“FT”) through which to operate his business. FT was headquartered in Lawton, Oklahoma, and all of its operations were within Oklahoma.

FT purchased 100 treadmills and stationary bikes from Live Right, Incorporated (“LR”) for \$1,000 each on May 1, 2014, for resale in his business. LR provided FT financing for the purchase, to be repaid over a four year period commencing on July 1, 2014, and took a security interest in the equipment it sold to FT. LR filed a financing statement covering the equipment with the Oklahoma Secretary of State on May 10, 2014.

FT also obtained a \$100,000 loan from Home Town Bank (“HTB”) on May 5, 2014 to cover other start-up expenses of the new business. HTB took a security interest in FT’s inventory and its accounts receivable (and proceeds thereof) to secure repayment of the loan. HTB filed a financing statement with the Oklahoma County Clerk’s office on May 11, 2014 covering its collateral for the loan. FT was obligated to repay the HTB loan in monthly payments commencing on June 1, 2014.

FT also entered into a 5 year lease with Rob’s Rentals on some space in a strip mall in downtown Lawton in which to operate the business.

QUESTION NO. 4 (Page 2 of 3)

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

FT commenced business on May 15, 2014, selling fitness equipment and supplies to customers at commercial rates for their personal use. However, in December, 2014, the FDA approved over-the-counter sales of a “magic pill” that allows people to maintain a healthy weight and good fitness without exercise. FT’s sales of fitness equipment plummeted. By July 2015, FT was four months delinquent on its payments to HTB and LR, and was three months delinquent on its lease payments to Rob’s Rentals. At that time, FT had \$100,000 in assets and \$300,000 in liabilities, including \$80,000 owed to LR, \$70,000 owed to HTB and the balance owed to 8 unsecured creditors. FT was delinquent in its payments to these creditors as well.

Questions:

- A. HTB comes to you for advice, wanting to know (1) if it should attempt to file an involuntary bankruptcy petition against FT; (2) its potential recovery on its loan both outside of bankruptcy and in the event of an involuntary bankruptcy proceeding against FT; and (3) how its prospects in bankruptcy compare with those of LR. Explain your answer.

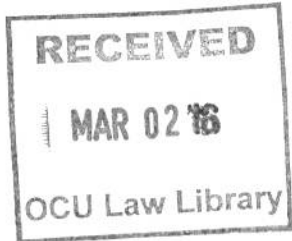
QUESTION NO. 4 (Page 3 of 3)

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

- B. Assume for this subpart only that no bankruptcy petition is filed. Explain the relative rights in equipment and supplies previously purchased by FT customers, as between LR, HTB and such consumers. Also explain the relative rights between LR and HTB in the proceeds from such sales.
- C. Assume for this subpart only that an involuntary bankruptcy petition is filed against FT on August 1, 2015. Explain any change in the position of consumers who purchased equipment and supplies from FT, assuming FT was insolvent at the time of the sales.
- D. In a bankruptcy, what rights will Rob's Rentals have in connection with the lease it signed with FT? Explain your answer.

QUESTION NO. 5 (Page 1 of 2)

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



Abbot is a new Associate at the law firm of Donovan, Durant, Presti and Westbrook, P.C.

At the time Abbot was hired, he is told by Donovan, a partner, that his primary area of practice will be wills, trusts and estates. Donovan also tells Abbot that he might have to help out on some other types of cases, but that his assigned attorney, Costello, an associate attorney, will supervise him and give him advice. Donovan then says, "Don't do anything illegal or at least ask someone before you do." Donovan slaps Abbot on the back, says "good luck" and leaves. Donovan reports to Costello who gives him several wills to work on.

Several months later, a man and wife come in to talk about a divorce. Abbot is the only attorney in the office as everyone else is at the annual bar meeting. Abbott decides to meet with the couple on his own, despite never having handled a divorce.

The husband and wife tell Abbot that they want to get a divorce and they agree on all of the terms. The couple have a two year old daughter, a house with a mortgage, two cars with car payments, some credit card debt and some household furnishings. They also agree that the wife will have custody of the child and the husband will have visitation. Husband admits to Abbot that he has a "serious drug problem" but says that he is going to a drug treatment facility within the week. The parties tell Abbot that they have agreed on how to divide the assets and the debt. Abbot listens to the couple, says, "I can help you," and agrees to take the case.

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QUESTION NO. 5 (Page 2 of 2)

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

Abbot agrees to draw up the agreed paperwork and make a single court appearance for the Judge to sign the Decree, about an hours work total, for a non-refundable fee of \$2,500. Husband and Wife agree and write Abbot a check. He accepts the check and deposits the fee into the firm's bank account.

Abbot begins drawing up the Decree and other paperwork. Although Donovan and Costello return from the bar meeting and ask Abbot about any new cases which came in, Abbot fails to mention the new divorce to either attorney, nor does he ask for any advice. Neither Donovan nor Costello follow-up to determine which cases Abbot is working on.

Two weeks later, Abbot has not completed the divorce paperwork. Wife calls Abbot to tell him that she and Husband's agreement has fallen through as Husband refuses to enter drug treatment. Wife tells Abbot to file for divorce on the grounds that her husband is a drug addict and to seek full custody without visitation. Abbot calls Husband to inform him of his conversation with Wife and to determine if Husband will accept service for the divorce he is going to file on behalf of Wife.

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

QUESTION NO. 6 (Page 1 of 2)

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

Paul Smith was starting a new plumbing company. Paul knew that he needed a business entity of some type but he really didn't want to go to an attorney and spend the money to properly create a company. Paul did some research on the internet and decided he would form an Oklahoma limited liability company on his own and without the assistance of an attorney.

Paul thought of a great name for his new plumbing company — "*Paul's Perfect Plumbing*". Paul knew enough that he needed to reserve the name, so he reserved it on January 1, 2015 with the Oklahoma Secretary of State. However, Paul didn't file his LLC documents and Articles of Organization until June 25, 2015. In between, someone else registered the name "*Paul's Perfect Plumbing*". Paul was upset and wanted to sue someone for taking his name. Paul also didn't want to put "LLC" or "limited liability company" in his name because he wanted all of the words in the name to perfectly start with P's. The only address Paul used on the Articles of Organization was PO Box 123, Norman, OK 73072. Paul didn't have an email address and didn't want to get one, so he didn't use one. When he ultimately filled out the form for an LLC, he only put "*Perfect Paul's Plumbing*", used the PO Box address for the registered place of business and registered agent, and forgot to sign the Articles of Organization for an Oklahoma limited liability company.

QUESTION NO. 6 (Page 2 of 2)

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

Questions:

- A. Under the Oklahoma Limited Liability Company Act, what are the specific problems with Paul's application with the Secretary of State, and explain why the application was denied.
- B. Assume for this subpart only that Paul came to you as a practicing attorney before he filed anything with the Secretary of State. How would you counsel him? What would you tell him about Oklahoma limited liability companies? How would you help him avoid the problems he encountered? Explain your answer.
- C. Assume for this subpart only that Paul, with the help of an attorney, ultimately resolved all issues regarding his Articles of Organization and LLC application, and the LLC was ultimately approved by the Oklahoma Secretary of State. However, Paul failed to file his annual certificate and failed to pay his annual \$25 fee after the first year. Paul then failed to file his Annual Report and failed to pay his annual certificate fee at all for 3 years and the Articles of Organization for the LLC were cancelled by the Oklahoma Secretary of State. After the cancellation, of which Paul was unaware even though the Secretary of State had sent him valid notices, Paul signed new contracts in the name of the LLC for a new truck and new camera. However, the LLC didn't make the payments for the truck and camera. Who is responsible for the contracts and the payments? Explain your answer.

QUESTION NO. 7 (Page 1 of 3)

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

The Oklahoma Funeral Board (“Board”) consists of seven members. Five of the members must be actively engaged in funeral directing and embalming in Oklahoma. The other two members of the Board are chosen from the general public, one of which must be a person licensed and actively engaged in the health care field. Freddy Firestone and Sally Snead, M.D. are Board members that were chosen from the general public. Barry Shisterman is a Board member who is actively engaged in funeral directing and embalming in Stifftown, Oklahoma. Barry Shisterman is trying to expand his funeral home empire to surrounding Oklahoma towns in such as Tombstone, Hell’s Gate and Killbride. The other members of the Board are Jerry Jones, LeRoy Burger, Karen Rothchild and Peggy Webling.

The Board is charged with issuing licenses for those qualified individuals engaging in the funeral home and embalming business in Oklahoma. The Board also regulates crematories in Oklahoma. One of the Board’s responsibilities is to act in an adjudicative capacity when deciding whether a funeral director, embalmer or crematorium should have its license revoked for violating the Board’s rules.

Darrell Deadman owns the only funeral home and crematorium in Tombstone, Oklahoma named Tombstone Funerals & Crematorium (“TFC”). Darrell Deadman has a funeral director license issued by the Board and separately the Board issued a crematorium license for TFC’s crematorium.

QUESTION NO. 7 (Page 2 of 3)

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

A letter with a Stifftown, Oklahoma postmark was delivered to the Board containing an anonymous tip alleging that TFC was selling body parts from corpses when a deceased's family asks for the body to be cremated. Thus, it is alleged, only a portion of the body is cremated instead of the entire body. If true, it would be a violation of the Board's rules and regulations and such a violation results in the revocation of the crematorium license and the funeral director's license.

The Board notified Darrell Deadman that it intended to revoke his licenses for violating the Board's rule prohibiting the selling of body parts from corpses. The Board also informed him of his rights to a hearing. Darrell Deadman timely notified the Board of his request for a hearing.

The Board selected Freddy Firestone, Barry Shisterman and Sally Snead, M.D. as hearing examiners. Pursuant to the Board's rules, a decision by the hearing examiners had to be unanimous. At Darrell Deadman's individual license revocation hearing, evidence was presented indicating that Darrell Deadman had sold body parts of corpses and then cremated the remaining remains. Thereafter, the hearing was recessed. During the recess, Sally Snead called a medical school classmate of hers, Victor Frankenstein, and asked him if he had purchased any body parts from Darrell Deadman. Also during the recess, Freddy Firestone called Peggy Webling to verify with her that selling body parts of corpses results in a mandatory revocation of

QUESTION NO. 7 (Page 3 of 3)

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

licenses. The hearing was resumed and Darrell Deadman testified that he had never sold body parts of corpses. The Board unanimously voted to revoke Darrell Deadman's funeral director and crematorium licenses.

You are to assume that all of the Board's rules and regulations were appropriately issued and complied with the Oklahoma Administrative Procedures Act.

Questions:

- A. Under the Oklahoma Administrative Procedures Act, was it appropriate for Sally Snead to call Victor Frankenstein about whether he has purchased body parts from Darrell Deadman? Explain your answer.
- B. Under the Oklahoma Administrative Procedures Act, was it appropriate for Freddy Firestone to call Peggy Webling about whether selling body parts of corpses results in a mandatory revocation of licenses? Explain your answer.
- C. Under the Oklahoma Administrative Procedures Act, was it appropriate for Barry Shisterman to be a hearing examiner on Darrell Deadman's case? Explain your answer.

QUESTION NO. 8 (Page 1 of 2)

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

The town of Titus, Oklahoma has approximately 3,000 residents. Ninety-three percent of those residents are African American and about twenty-five percent live below the poverty line. The tax base for the municipality's government is very modest, to say the least.

To supplement tax revenues, the City Council of Titus has developed an array of monetary fines, all of which have now become law. As a result, Titus residents are subject to fines if:

1. They walk on the left side of a crosswalk;
2. They maintain a hedge more than three feet high;
3. They have weeds more than seven inches high;
4. They have any dead vegetation on their property;
5. They park a car at night more than 500 feet from a street lamp or other source of illumination;
6. Windows facing a street do not have drapes or blinds that are "neatly hung, in a presentable appearance, properly maintained and in a state of good repair";
7. Their houses have unpainted foundations or chipped or aging layers of paint; or
8. There are cracks in their driveways.

QUESTION NO. 8 (Page 2 of 2)

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

Questions:

- A. Are the actions of the town of Titus, Oklahoma in violation of the United States Constitution?
- B. If so, what are the constitutional infirmities?
- C. Provide your analysis of any constitutional issues which you have identified.

QUESTION NO. 9 (Page 1 of 1)

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

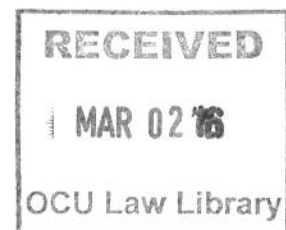
Adrian Sanders was killed at a railroad crossing in Tulsa when a train on the BNSF Railway tracks near downtown slammed into his car. The crossing was marked with an unobstructed stop sign and a railroad-crossing symbol, but there were no flashing lights or railroad crossing gates. Applicable law required only the stop sign and railroad-crossing symbol.

The train, owned by BNSF Railway, was operating legally in all respects, including speed, mechanical conditions, and fitness of the conductor. Witnesses confirmed that the train's horn sounded for several seconds in advance of the collision.

Adrian's parents sued BNSF Railway, alleging negligence in the design and maintenance of the crossing. BNSF Railway argued that Adrian failed to stop at a stop sign located at the crossing, and produced evidence of same at trial.

Questions:

1. Was BNSF Railway negligent?
2. What was the proximate cause of the accident?



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QUESTION NO. 10 (Page 1 of 1)

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

Andy and Bob were at local bar. While having a few drinks, the men discussed the need for cash to buy drugs. Andy decided to rob Bob's ex-girlfriend, Cindy. After much discussion, Bob said he wanted no part of it but let Andy borrow his car and told him where she lived. Bob took a cab home and went to bed. Andy drove to Cindy's house. The house appeared empty. Andy went to the back door and found it unlocked. Andy went inside and grabbed some jewelry and cash. In an attempt to cover his tracks, Andy set the house on fire. Unbeknownst to Andy, Cindy was upstairs asleep. Cindy died in the fire.

Questions:

- A. What crimes could Andy be charged with, and what defenses could he have, if any, to each crime? Explain your answer.
- B. What crimes could Bob be charged with, and what defenses could he have, if any, to each crime? Explain your answer.

QUESTION NO. 11 (Page 1 of 2)

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

Adam has just been admitted to practice law and is employed with Obama & Bush, P.C., a ten (10) lawyer firm in his hometown. Ben, who was a long-time friend of Adam's late grandfather, has decided to run for State Senate against the incumbent, Gail. Ben's campaign staff has thoroughly researched Gail's background and has uncovered some rather unsavory information about her and her husband, David, who held her Senate seat for several years prior to her election.

Ben is in need of a good attorney because he has a tendency to speak freely at public engagements. Accordingly, he wants to make sure any public comments regarding Gail during the campaign does not result in legal action. Due to Ben's long standing relationship with Adam's family, he wants to retain Adam and his firm to advise him on what comments might cross the line into defamation or any other potential legal claims. Ben makes an appointment to consult with Adam.

After the initial appointment, Adam immediately accepts Ben as a client without first consulting anyone in the firm. Ben writes a check for the \$2,000 retainer and accepts Adam's hourly rate of \$250. Later that evening, Adam tells his wife, Ellen, that he is really excited to have Ben as a client, that Ben's campaign staff has really "got the goods" on Gail, and that he is looking forward to assisting in the campaign to defeat Gail come election time. Adam is also

QUESTION NO. 11 (Page 2 of 2)

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

excited that Ben agreed to pay the firm a retainer and fees commensurate with what the firm's partners customarily charge.

The next day, Ben makes an appearance on a local radio station and responds to a question regarding "dirt" he may have on Gail by stating, "talk to my lawyer, Adam, at Obama and Bush"! Shortly thereafter, Adam gets a telephone call from his father who tells him that his grandfather would be proud that he is helping Ben take down Gail. When Adam asked how he knew that Ben was a client, his father told him that he just heard Ben on the radio, and then called Ellen, who confirmed the firm was representing Ben and told him all the sordid details about Gail and her husband.

Meanwhile, Cheney, a senior partner of the firm, has just gotten off the telephone with Gail, who reminded him of all the legal work that Obama & Bush, P.C., had done for her husband, David, over the years, and that she does not appreciate the firm representing Ben. Cheney then receives a message that the local newspaper is on "line 3" for a comment on Ben's radio interview from earlier that day. Cheney tells his assistant to take a message.

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

QUESTION NO. 12 (Page 1 of 3)

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

Ashley and Bruce were married in 2011. It was Ashley's first marriage and Bruce's second marriage. Bruce has two adult children from his prior marriage, namely Edward and Clara.

In 2009, shortly after divorcing his first wife, Bruce executed a will which left the entirety of his estate to his two children in equal shares. In 2013, Bruce instructed the same attorney that drafted the 2009 will, Attorney Johnson, to prepare a new will which expressly revoked the 2009 will, made specific bequests of \$50,000 each to Edward and Clara, and left all the rest, residue and remainder of Bruce's estate to his wife Ashley. The 2013 will named Ashley as executrix. Bruce duly executed the new will in March 2013 with all formalities as required under Oklahoma law. Ashley gave birth to Bruce's third child, Daphne, in March 2014. When Daphne was born, Ashley quit her job to focus on being a full-time mom and Bruce provided all income for the family from his salary as a business executive.

Bruce was hospitalized with a serious medical condition in October 2015. Bruce remained hospitalized for an extended period, and he was still in the hospital on November 5, 2015, when he called Attorney Johnson and instructed him to prepare a new will leaving all household personal property to his wife Ashley and dividing the residue of the estate between Edward and Clara; Bruce made no mention of Daphne. Attorney Johnson prepared the new will as Bruce instructed, and Bruce executed the new will at a signing ceremony in Attorney Johnson's office on November 9, 2015, the day after Bruce was discharged from the hospital. The new will names Edward as executor.

QUESTION NO. 12 (Page 2 of 3)

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

Bruce died on December 11, 2015, and shortly thereafter Edward filed a petition to probate the 2015 will. Ashley petitioned to have the 2013 will admitted to probate, alleging that the 2015 will was invalid. A trial was held to determine which of the two wills should be admitted to probate as Bruce's Last Will and Testament. Testimony given at trial showed:

- Edward and Clara were present with Bruce when he made the call to Attorney Johnson on November 5th, and Edward and Clara accompanied Bruce to the will signing ceremony on November 9th.
- At Attorney Johnson's office, Bruce read the new will and stated out loud that it precisely reflected his instructions. Bruce then signed the new will and Attorney Johnson signed as an attesting witness beneath a proper attestation clause. Attorney Johnson then called down the hall for his secretary, Susan, who was not present when Bruce signed the will nor when Attorney Johnson signed as an attesting witness. When Susan walked in, Bruce again stated that the will expressed his desires and told Susan that he already signed it;
- As Bruce was leaving Attorney Johnson's office (along with Edward and Clara), Bruce turned to thank Attorney Johnson and then stated that he did not know what all the fuss was about because he did not have any assets except for the house where he and his wife Ashley lived. This comment caused Attorney Johnson some concern because he knew for a fact that Bruce had investment accounts worth more than \$1,000,000 and a large life insurance policy that named Ashley and Daphne as beneficiaries.

QUESTION NO. 12 (Page 3 of 3)

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

- On November 12th, Edward stopped by Attorney Johnson's office and picked up Bruce's new will from Susan, the secretary, who did not know about Attorney Johnson's concerns.

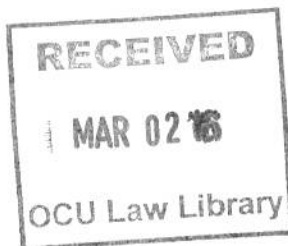
Questions:

- A. On what grounds might Ashley contest the 2015 will? Is she likely to succeed? Explain your answer.
- B. Assume for this subpart only that Ashley is unsuccessful in contesting the 2015 will, and the 2015 will is admitted to probate. What other rights or interests might Ashley claim with regard to Bruce's assets and estate? Explain your answer.
- C. Is Daphne entitled to inherit any portion of her father's estate? Does the answer or analysis change based on whether the 2013 will or the 2015 will is admitted to probate? Explain your answer.
- D. Assume for this subpart only that the Court determines that neither the 2013 will nor the 2015 will is admissible to probate and that Bruce therefore died intestate. To whom, and in what proportions, should Bruce's estate be distributed under the Oklahoma laws of descent and distribution? Explain your answer.

QUESTION NO. 13 (Page 1 of 3)

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

This is a 3-part question:



Part 1:

A big storm came through Hailtown, Oklahoma. Nancy Neighbor is at her Hailtown home the following day, and Randy Roofer knocks on her front door. Roofer is selling new roofs. Neighbor agrees to buy a roof from Roofer, signs a contract promising to pay for the \$25,000 roof in monthly installments, and pays Roofer a down payment of \$1,000. Roofer immediately tenders some roofing materials to Neighbor. A few days later, Neighbor learns that her roof wasn't damaged enough for insurance to cover the cost of a new roof, and she will have to pay for it all out of pocket. She comes to your office with questions.

Questions:

- A. Under the U3C, what kind of sale is this?
- B. Can Neighbor cancel the sale? What does it depend on? When can she cancel, and how must she cancel it? Explain your answer.
- C. Assume for this subpart only that Neighbor can cancel the sale. Explain what happens to the down payment and the roofing materials.
- D. Assume for this subpart only that Neighbor did cancel the sale. Under Oklahoma law, explain whether Roofer can charge a cancellation fee and, if so, how much.

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

Part 2:

Roofer promises Neighbor, before the contract closes, that Neighbor will get \$1,000 off the price of the roof for every name Neighbor gives to Roofer who will agree to buy a roof from Roofer after Neighbor does. Neighbor plans to give the entire neighborhood roster to the Roofer, and expects a substantially reduced price for the new roof later. Ultimately, none of those people buy a roof from Roofer, and Neighbor is told she must pay the full price.

Question:

- E. Is that referral discount legal? If so, explain why. If not, explain your answer and describe what rights Neighbor has.

Part 3:

Nancy Neighbor has what she believes is a fantastic idea for a new invention. She wants to develop a force field that can extend over a house to protect it from hail. She looks on the internet and finds a company called Inventors Inc. Neighbor contacts them to develop her force field invention. Inventors Inc. says that's their business: they develop and promote inventions so they can be patented, licensed, or sold for manufacture. They give her paperwork describing their business. Inventors Inc. tells Neighbor they would be happy to develop her force field

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invention for her, for a monthly fee of \$20,000. Neighbor agrees and signs a contract. A few days later and after her first payment, Neighbor has second thoughts. She comes to your office with the paperwork and questions.

Questions:

- F. What initial disclosures is Inventors Inc. required to make to Neighbor? What rights does Neighbor have if the initial disclosures are not made?
- G. Can Neighbor cancel the contract? What does it depend on? Explain your answer.
- H. What are some examples of the other disclosures Inventors Inc. is legally required to make to Neighbor in the invention development contract?

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Seven years ago, Husband (age 35 at the time) and Wife (age 38 at the time) married in Oklahoma. Prior to the marriage, Husband had graduated from college with a business degree. He had been involved in a number of failed business ventures and had been unable to maintain full time employment. Wife was a CPA. Husband considered himself to be an entrepreneur and had worked, for the most part, in real estate development. Wife was concerned with his financial condition.

Prior to the marriage, Husband, aware of Wife's concerns, suggested to Wife that they enter into a prenuptial agreement. At Husband's suggestion, (1) all assets would be titled in Wife's name, both those belonging to Husband before the marriage and all assets obtained by either of them during the marriage, (2) Wife would pay all debts, including Husband's sizeable debts incurred prior to the marriage, (3) in the event of divorce, Wife would retain sole ownership of the assets, and (4) in the event of divorce, neither would seek support alimony.

Husband's attorney prepared the agreement. Husband and Wife fully disclosed their financial worth. None of their assets had much value at the time. Wife reviewed the agreement with her personal attorney. Husband and Wife signed the agreement. Husband transferred all his assets to Wife.

During the marriage, Husband did not maintain steady employment. He had no success in real estate development. Wife has continued working as a CPA with the same employer. She

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has continued to contribute to her retirement account. Several years ago, she sold all of the assets Husband had transferred to her, except one parcel of real estate, to pay off his debts. She has kept that property maintained and paid the taxes on it. She has been meticulous about managing the finances. After five years, the debts were paid, and they are debt free.

They live in a modest home which Wife owned prior to the marriage and each drive an automobile, all of which are titled in Wife's name. Husband owned the car he drives before the marriage and Wife likewise owned the car she drives before the marriage. The piece of real estate which had formerly belonged to Husband is now titled in Wife's name has become valuable due to the discovery of oil and gas. He has not advised Wife, but Husband has a bank account in his name only with over \$50,000 in it, a recent gift from his brother.

Husband now wants a divorce. He wants support alimony and a share of all of the assets.

Questions:

- A. Is the premarital agreement enforceable? Explain your answer. (25 points)
- B. If the premarital agreement is not enforceable, who gets which assets? Explain your answer. (50 points)
- C. If the premarital agreement is not enforceable, is Husband entitled to alimony? Explain your answer. (25 points)

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Cimarron River Ranch (CRR) is the fee simple record owner of approximately 3,500 acres located in southeastern Oklahoma. On January 1, 1995, CRR completed construction of a high game fence, and entered into a hunting lease with Oklahoma Hunt Club (OHC). The lease granted OHC the exclusive right to hunt, not only the 3,500 acres of which CRR was the record owner, but also another 500 acres which had been included in the high game fence constructed by CRR. The record owner of the additional 500 acres is the Wise Guys Trust (WGT). WGT became the record owners of the 500 acres by way of warranty deed executed and filed of record in 1950. WGT has paid all of the real property taxes on the 500 acres.

CRR maintained the high game fence, as well as roads and structures located on the 4,000 acres, and OHC enjoyed exclusive hunting rights on the 4,000 acres pursuant to its lease with CRR, from January 1, 1995 until November 2015. In November 2015, Joe, the trustee of WGT, made a trip from Houston, Texas to Oklahoma and discovered the high game fence surrounding the 500 acres of which WGT was the record owner. Joe cut the fence, entered the property, threatened the hunters, called the Sheriff, and generally raised a big fuss.

As a result of Joe's actions, CRR filed a petition in the District Court of Love County, Oklahoma, to quiet title in the 500 acres in CRR.

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Questions:

- A. State the cause(s) of action or legal theory supporting CRR's case, and analyze CRR's chances of prevailing in its quiet title suit.
- B. Identify WGT's defense(s) to CRR's cause(s) of action, and analyze WGT's chances of defeating CRR's claim.

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Paula is a well-known collector and broker of classic cars. Paula has identified a classic car (“Car”) for sale which she wants to purchase. Due to her reputation for making large profits, Paula is concerned that the asking price of the Car could increase if the Car’s owner (“Owner”) learns of Paula’s involvement in the transaction.

Paula hires Allen to negotiate a contract with the Owner on Paula’s behalf for the purchase of the Car. Paula instructs Allen not to reveal Paula’s identity to the Owner. Paula makes it clear to Allen that Paula will direct and control all decisions to be made regarding the terms of the contract. Allen contacts the Owner and begins negotiations.

Allen informs the Owner that Allen is acting as the agent of the “actual buyer,” but does not identify Paula. Allen reaches an agreement with the Owner for the purchase of the Car. The agreement contains all of the terms which Paula had directed. A written contract (“Contract”) for the purchase and sale of the Car is prepared and signed. The Contract names Owner as “Seller” and Allen as “Buyer.” Paula is not mentioned in the Contract. Allen and the Owner never discussed the potential personal liability of Allen to the Owner under the Contract and this issue was not addressed in the Contract.

On the date the Contract designates for the closing of the transaction, Paula decides not to purchase the Car. At Paula’s direction, Allen meets with the Owner and tells him that the

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Contract has been cancelled by “the actual buyer.” The Owner then informs Allen that the Owner will be filing a lawsuit against Allen and the “actual buyer” for breach of Contract.

Questions:

- A. Under the law of agency, was a valid agency relationship created between Paula and Allen? Include in your answer the legal definition and characteristics of an agency relationship and discuss how your answer to the question is supported by these facts.
- B. In applying the law of agency in the lawsuit, should the Court find that Paula is a party to the Contract and is liable for its breach? Discuss in detail the applicable principles of agency law which, as applied to these facts, support your answer.
- C. In applying the law of agency in the lawsuit, should the Court find that Allen is a party to the Contract and is personally liable in his individual capacity for its breach? Discuss in detail the applicable principles of agency law which, as applied to these facts, support your answer.