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

Shaggy and Daphne married 15 years ago in Oklahoma City. Prior to the marriage, Shaggy worked as an administrative assistant at a downtown Oklahoma City law firm. Daphne serves as the Chief Executive Officer of the Spring Corporation, a corporation that makes the springs found in push-button retractable ink pens. Daphne receives an annual salary of \$250,000. The couple originally resided in Tulsa County, but Daphne's job has required the couple to move several times as Daphne ascended up the corporate ladder. The couple has lived in Oklahoma County for the past 3 years.

Shaggy and Daphne decided that, due to the travel demands of Daphne's job and because of her salary, they could afford for Shaggy to be a stay-at-home dad. Daphne has over \$4 million dollars from investments she owned prior to the marriage. In the past 15 years, Shaggy has not worked, but he has taken care of the couple's three children.

A month ago, Shaggy told Daphne of his desire to return to work outside the home and to become a paralegal. He could obtain a paralegal degree after two years of school. Daphne responded that he should be happy he does not have to work due to her annual salary. Shaggy decided to forget about the idea of going back to school.

Last week, Shaggy picked up Daphne's dry cleaning, and he found a love letter to Daphne from one of her co-workers, Fred. Shaggy confronted Daphne about the letter, and she confessed to having an affair with Fred. Shaggy and Daphne have decided to get a divorce.

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Shaggy walks into your office seeking advice about the couple's divorce. He says that the couple has all aspects of the divorce resolved except for any spousal support he could possibly receive from Daphne.

Questions:

- A. Advise Shaggy of what a court will consider as a basis for an award of spousal support. Explain your answer.
- B. Assume for this subpart only that you are the judge assigned to this case. Based on your answer to subpart A, make an award and prepare an order explaining how you came to your conclusion.

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

Earl was short on cash and needed some money for cigarettes. As he was riding his bike home one night from the casino in Lawton, Oklahoma, he noticed construction on a structure that was immediately connected to a pre-existing home. Knowing that the homeowners had a lucrative lawn care business, he decided to see if there was any equipment inside that he could take and pawn. Earl entered through an unlocked door and began looking around. What Earl did not expect was that Jay, the homeowner's son, was currently residing in the structure while he was home from college. Earl was so startled at the sight of Jay sleeping that he tripped over a table and caused quite a commotion. While on the ground, Earl found a long metal pipe and picked it up. When Jay awoke and saw Earl standing in his living quarters with the metal pipe, he screamed. Hearing the screams, Jay's mother Linda grabbed her gun and ran outside to the structure to see what had occurred. As she opened the door, she saw Earl moving towards Jay with the pipe in hand. She quickly fired her pink Glock .40 and shot Earl in the leg. Earl, although grazed by the bullet, was able to run out to his bike and peddle home.

By the time Earl arrived back at his apartment, blood had begun to soak through his pants. Earl's wife, Crystal, obviously concerned, asked Earl how he became injured. Earl began telling his wife the story about the structure, how he didn't believe that anyone was residing there, and his plan to take some of the equipment. A few hours later, after following the trail of

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blood left by Earl, the cops came to the apartment. After some brief questioning, Earl was arrested.

Questions:

- A. What crimes, if any, could Earl be charged with? Explain your answer.
- B. What crimes, if any, could Linda be charged with? Explain your answer.
- C. Assume for this subpart only that Jay was not living in the structure and Linda killed Earl. How would your answers to subparts A and B be different (if at all)? Explain your answer.
- D. Assume for this part only that Earl's case went to trial. Could Crystal be compelled to testify against him? Explain your answer.

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In 1975, John Doe, a then unmarried man, purchased a five (5) acre tract of land, which is described as the S/2 NW/4 NW/4 NW/4 of Section 18, Township 1 South, Range 8 West, I.M., Stephens County, Oklahoma (the "Proper Tract"). Mr. Doe received a Warranty Deed covering the Proper Tract, which such deed was properly recorded.

In 1976, Mr. Brown, the owner of the adjacent five (5) acre tract, which is described as the N/2 NW/4 NW/4 NW/4 of Section 18 (the "Adjacent Tract"), gave a quitclaim deed (the "QCD") to Mr. Jones covering the NW/4 NW/4 NW/4 of Section 18. Accordingly, the QCD covered not only the Adjacent Tract, which Mr. Brown owned, but also the Proper Tract owned of record by Mr. Doe. The QCD was properly recorded in 1976.

Mr. Jones is still living and is still the record owner of the Adjacent Tract. Since the delivery of the QCD to him, Mr. Jones has not possessed the Proper Tract or signed any instrument covering the Proper Tract.

In 2005, Mr. Doe married Jane. However, title to the Proper Tract was never put in Jane Doe's name as either a joint tenant or a tenant in common. Between 1975 and 2008, Mr. Doe never recorded any instrument covering the Proper Tract.

In 2008, Mr. and Mrs. Doe signed a contract to sell the Proper Tract to Mr. Smith for \$50,000. The contract appropriately described the Proper Tract. At the closing, the purchase price was paid and a warranty deed ("WD") signed by Mr. and Mrs. Doe was delivered to Mr.

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Smith and then filed of record. Due to a scrivener's error, the property description in the WD contained the following erroneous description:

S/2 NW/4 NW/4 NE/4 of Section 18, Township 1 South, Range 8
West, I.M., Stephens County, Oklahoma

John Doe died intestate in January 2009. At the time of his death, he was married to Jane Doe and had two adult children, Jim Doe and Jennifer Doe. Jim and Jennifer's mother is not Jane Doe. Due to the fact that all of John Doe's other assets were held in joint tenancy with Jane Doe, no administration of his estate has been initiated.

Between 1975 and 2008, John Doe openly possessed the Proper Tract and paid all ad valorem taxes assessed against that property. Beginning in 2008 to the present, Mr. Smith has openly possessed the Proper Tract and has paid all ad valorem taxes assessed on the property.

Prior to 2011, Mr. Smith had never requested that the title to the Proper Tract be examined by an attorney. Mr. Smith has now brought you the abstract covering the Proper Tract. The abstract contains the instruments described above.

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Questions:

- A. Identify and discuss any specific title problems you see in the abstract, and determine whether Mr. Smith has marketable title to the Proper Tract. Explain your answer.

- B. Assume Mr. Smith wants to cure any title problems you identified in answer to subpart A above. Identify and discuss what options are available to Mr. Smith to cure these title problems, including identifying who will need to be involved in each such option. Explain your answer.

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The Oklahoma Department of Mines (“ODM”) is an administrative agency subject to Article I of the Oklahoma Administrative Procedures Act (“OAPA”). The ODM is required by statute to promulgate rules and regulations to enforce the provisions of the “Oklahoma Explosives and Blasting Regulations Act”. Under said Act, any person who intends to use explosives or conduct “blasting operations”, i.e. a “blaster”, must first obtain a permit from the ODM.

In response to an alarming increase in fatalities and destruction of private property due to recent “blasting operations”, the ODM decided to revise its rules to set higher certification and qualification requirements for “blasters” seeking a permit. The decision was made informally on an emergency basis; there was no rulemaking or adjudication. The Oklahoma governor quickly approved the emergency rule, but no action was taken on the new rule by the Oklahoma legislature.

A press release was issued by the ODM explaining its decision and also advising that the new “blaster” permit requirements were to be posted on ODM’s website. Further, anyone interested in obtaining a copy of the new “blaster” permit requirements was advised in the press release that a copy would be provided free of charge upon written request.

Blasting Operations, Inc. challenged the newly-promulgated rule revising “blaster” permit requirements. The Company feared that over 50% of its “blaster” personnel no longer

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possess the requisite certification and qualifications necessary to obtain a permit from the ODM.

The lawsuit was filed in the District Court of Oklahoma County, State of Oklahoma.

Questions:

- A. Blaster Operations, Inc. believes the ODM's rule revision process violated Article I of the OAPA. Will its challenge be successful? Explain your answer.

- B. Assume the ODM requests the District Court to affirm its decision based only upon affidavits from its officials and employees regarding the basis for its decision. Is this proper? Explain your answer.

- C. What standard of review should the District Court use in determining whether to set aside, modify, or reverse and remand the ODM's decision? Explain your answer.

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

Dave and Isabel are down on their luck. After a failed attempt at fame and fortune on Broadway, they have returned home to Oklahoma. While wallowing in their sorrow at the Double Deuce, they run into Lola, an old friend who is an out-of-work masseuse. Over the course of the evening, the three realize that fate has brought them together. They decide to combine their talents to open "Masseusical" – the first ever musical massage parlor. To open the business they decide they need to have an investor who will put \$50,000 in the business and accept a minority ownership position with no involvement in management. They approach you for advice in forming one of the following business entities: general partnership, limited liability company or a corporation. They are also interested in providing for a potential investor under the terms described above, minimizing taxes, limiting their personal exposure to liability, and participating equally in the management of the business.

Questions:

- A. Explain how you would determine if they can use their chosen name.
- B. What are the necessary actions to form each of the business entities under consideration? Explain your answer.
- C. For each business entity type under consideration, explain how that type of entity would address their stated concerns and desires.
- D. Which business entity would you recommend? Explain your answer.

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You practice law in Northwestern Oklahoma. You are often appointed by courts in various counties as a guardian ad litem (“GAL”), representing minors because your training as a GAL is up to date. You receive a written notice, among other documents, from the District Court of Woodward County, Oklahoma, that you have been appointed to represent 3 minor siblings in a juvenile case: Leizel age 16 years, Heather age 10 years, and Rachael age 18 months. The District Attorney alleges that Leizel, Heather, and Rachel are deprived and neglected by virtue of their father allegedly sexually abusing the 2 older children and allegedly failing to properly feed, clothe and supervise the youngest child. Three legal actions have been filed: (1) felony sexual abuse charges against their natural father, (2) failure to protect charges against their natural mother, and (3) a juvenile case requesting the children be removed from the home on grounds of deprivation and neglect.

While reviewing the additional documents referenced above, you note that the natural father and natural mother are represented by Mr. Haney and that they have retained Mr. Haney to represent the children. Prior to the natural father’s preliminary hearing, you file an objection to Mr. Haney representing both the parents and the children in the criminal matters and the juvenile matter. Mr. Haney tells Judge Arnold, who is hearing the criminal case against the natural father, “I’m good to go on this. All my research shows its okay for me to represent all the parties.” You have no idea where this so-called “research” came from and yet, Judge Arnold

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overrules your objection and the preliminary hearing is commenced. When Leizel and Heather are called to testify, each of the girls state, "I refuse to answer because of my right against self-incrimination." Your jaw drops at that moment.

Several days after completion of the preliminary hearing, the hearing on the District Attorney's Petition for Determination of Deprivation and Neglect commences in the juvenile court. You file your same objection in the juvenile case as you did in the criminal case. The presiding Judge in the juvenile matter, Judge Oliver Wendell Douglas, finds that Mr. Haney cannot represent the children in the juvenile case since he represents the parents in both the criminal case and the juvenile case. Mr. Haney again says "I'm good to go on this. All my research shows its okay for me to represent all the parties," and Mr. Haney absolutely refuses to withdraw in any of the matters.

At this moment, Judge Oliver Wendell Douglas recesses court and telephones the Oklahoma Bar Association's Ethics Counsel, Mr. Drucker, and advises him of the above fact scenario without stating any names. Mr. Drucker states that a major problem exists. He suggests that the judge inform the attorney (Mr. Haney) that it is recommended that he withdraw in the juvenile case. Mr. Drucker also suggests that Judge Oliver Wendell Douglas file a complaint with the Oklahoma Bar Association's General Counsel's Office against Mr. Haney. Judge Oliver Wendell Douglas states that he really does not want to take these actions. It is a small

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town and a small county, and Judge Oliver Wendell Douglas is concerned that word could accidentally get around and as a result, Mr. Haney would have no practice. In response, Mr. Drucker further advises Judge Oliver Wendell Douglas that failure to file such a complaint against Mr. Haney could result in a complaint being filed against Judge Oliver Wendell Douglas himself.

After much thought and consideration, Judge Oliver Wendell Douglas forced Mr. Haney to withdraw as attorney representing the children in the juvenile matter, and appointed attorney Joe Hooterville to represent the minor children in the juvenile matter. In addition, Judge Oliver Wendell Douglas reported the entire fact scenario to the Oklahoma Bar Association's General Counsel's Office, in writing, including a complaint against Mr. Haney.

Identify and discuss each ethical issue presented in the above fact scenario, including what action the Oklahoma Bar Association's Office of the General Counsel should take or not take in this matter.

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Vickie lived with her boyfriend, Duane. On May 17th, 2011, Duane became irate after arriving home intoxicated at 2:00 a.m. and found no dinner waiting for him on the table. He went into the bedroom where Vickie was asleep, grabbed her by the hair, and pulled her from the bed. Vickie told Duane that the food was waiting for him on the kitchen counter which was not true. Duane pushed her to the floor, kicked her in the back, and left the room in search of the food.

After Duane left the bedroom, Vickie closed the bedroom door and pushed a dresser in front of it to prevent it from being opened. She then picked up the phone and called 911. She told the 911 operator that her boyfriend, Duane, had beaten her. She described the incident including that she was asleep, that he pulled her from the bed by the hair, and that he kicked her after throwing her to the floor. She told the 911 operator that he had left the room. Suddenly the phone, which was plugged into a phone jack outside the bedroom door, went dead. Duane then attempted to open the door. He pushed his way into the room, and began hitting Vickie on the forehead with the telephone receiver. He grabbed her by the hair, hit her four times in the face, and began to choke her but then inexplicably ran from the room. Vickie yelled that she had called the police and then heard Duane leave the house. Looking out the window, Vickie saw Duane get into his red 1969 Ford Pinto and drive off.

The police arrived at the house shortly thereafter. Vickie was sitting on the front porch smoking a cigarette. Officer Hank asked Vickie what had happened. She stated that she and her boyfriend had an argument but everything was fine now. She said her boyfriend had left.

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Officer Hank could see that Vickie had swelling on her face, red marks around her neck and several knots on her forehead. He again asked Vickie what happened. Vickie told Officer Hank the events of the night, including what she had told the 911 operator and the events that happened after the 911 call was cut off.

Duane was apprehended and subsequently charged with Domestic Abuse by Strangulation. By the time of the trial, Vickie and Duane had settled their differences. Vickie attempted to have the charges dropped, but the District Attorney would not do so. Vickie was served with a subpoena to appear at trial and testify but she fled to Mexico the week before the trial.

At trial, the prosecutor called as witnesses the 911 operator and the officer. Each witness was allowed to testify as to what Vickie told them. The jury found Duane guilty.

Questions:

- A. Was any of Duane's constitutional rights violated by the admission at trial of the testimony of (1) the 911 operator, and (2) Officer Hank as to what Vickie said to each of them? Explain your answer.
- B. Assume for purposes of this subpart only that Duane and Vickie discussed ways for her to avoid testifying, and that Duane paid for her flight to Mexico and her hotel room. What effect, if any, does this have on your answer to subpart A above? Explain your answer.

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

Amos Smith owned both real and personal property in Oklahoma. In 1981, he executed a valid, self-proving Last Will and Testament in his hometown of Ada, Oklahoma. Some of the provisions of the Amos Smith Will are as follows:

- A. I hereby give, devise and bequeath to my brother, Bill Smith, all of my stock in ABC Corporation.
- B. I hereby give, devise and bequeath all the rest, residue and remainder of my estate to my wife, Cindy Smith, an undivided one-half interest, and to my daughter Sally Smith, my only child, an undivided one-half interest.
- C. I nominate and appoint my wife to serve as the Personal Representative of my estate, and direct that she may serve without bond.

In 1985 Amos Smith and Cindy Smith divorced, with Cindy receiving full custody of Sally Smith.

In 1987, Sally, now of legal age, married and moved to North Dakota.

In 1989, Amos Smith was transferred to South America by his employer. While he was there, he met a woman and fathered a child named Maria Smith. Amos acknowledged that he was the father of Maria Smith in various legal documents, but he never entered into any type of recognized marital relationship with Maria's mother, including any type of common-law relationship.

In September 2006, Amos returned to Oklahoma on a brief business trip. Due to market conditions, he sold his stock in the ABC Corporation and spent the money on gifts for Maria

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Smith and her mother, which he shipped to them via an international carrier, rather than taking them back to South America in his luggage. Before he could return to his job in South America, he died of a sudden heart attack. The day before Amos Smith died, his daughter Sally died, leaving two children, Amos Smith's grandchildren. Sally's husband predeceased her the previous year. Amos Smith had never replaced, revoked or otherwise destroyed his 1981 Will prior to his death.

Questions:

- A. Explain what inheritance rights each of the following people have under the Will of Amos Smith:
1. Bill Smith, Amos' brother
 2. Cindy Smith, Amos' ex-wife, who never remarried
 3. Amos Smith's grandchildren
 4. Maria Smith, Amos' illegitimate daughter from South America
- B. Who can be appointed the Personal Representative of Amos' estate? Explain your answer.
- C. How will the Court likely order the estate be divided and distributed? Explain your answer.

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

Law Dog was an experienced defense attorney in Western Oklahoma, and has participated in hundreds of criminal trials. He decided that it was time for a career change and accepted the top assistant position with the District Attorney's office. Six months before he decided to leave private practice, he had consulted extensively with Johnny Killer who was charged with first degree murder. Johnny Killer decided not to hire Law Dog because he was too expensive.

When Law Dog joined the DA's office, he was appointed to prosecute Johnny Killer. During negotiations with Johnny Killer's attorney, Law Dog asked to look at the defense attorney's file. The defense attorney declined and later left the room but accidentally left his file in Law Dog's office. Without the defense attorney knowing, Law Dog decided to take a peek at the file, which contained all the defense attorney's notes. That same day, Johnny Killer was at the courthouse making payments on a prior case. Law Dog saw Johnny Killer and asked Johnny Killer why he wanted a trial if he knew he committed the crime and Law Dog suggested Johnny Killer should take the plea offer.

On the eve of Johnny Killer's trial, Law Dog was interviewing witnesses when he discovered that one of his witnesses was going to lie on the stand the next day at trial. Law Dog decided not to tell anyone and went ahead and let the witness testify at trial. The following day, Johnny Killer was convicted and sentenced to life in prison.

Identify and describe any ethical rule violations that may have been committed. Explain your answer.

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In light of the aging population and expanded life spans, Bob Fixer decided to start a new medical equipment and supply business. He created a new Oklahoma corporation, Medical Supplies Unlimited, Inc. ("MSU") through which to operate his business. MSU is headquartered in Tulsa, Oklahoma, and all of its operations are within Oklahoma.

To commence its business, MSU purchased \$100,000 of medical equipment and supplies from Health Aid Incorporated ("HAI") on May 1, 2011. HAI provided MSU financing for the purchase, to be repaid over a four year period commencing on July 1, 2011, and took a security interest in the equipment and supplies it sold to MSU. HAI filed a financing statement covering the equipment and supplies with the Oklahoma Secretary of State on May 10, 2011.

MSU also obtained a \$100,000 loan from Any Town Bank ("ATB") on May 5, 2011 to cover other start-up expenses of the new business. ATB took a security interest in MSU's inventory and its accounts receivable to secure repayment of the loan. ATB filed a financing statement with the Oklahoma County Clerk's office on May 11, 2011 covering its collateral for the loan. MSU was obligated to repay the ATB loan in monthly payments commencing June 1, 2011.

MSU commenced business on May 15, 2011, selling medical equipment and supplies at fair market value to customers for their personal use. However, business was slower than expected, due to a successful community wellness campaign. By July 2012, MSU had \$100,000

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in assets but was four months delinquent on its payments to ATB and HAI. At that time, MSU had \$300,000 in liabilities, including \$80,000 owed to HAI, \$70,000 owed to ATB and the balance was collectively owed to 8 unsecured creditors, all to which MSU was delinquent in its payments.

Questions:

- A. Assume for this subpart only that ATB is your client and is considering the filing of an involuntary bankruptcy petition against MSU. Compare ATB's prospects in bankruptcy with those of HAI and specifically address ATB's potential recovery of the loan. Explain your answer.
- B. Assume for this subpart only that there is no bankruptcy of MSU. Explain the relative rights in equipment and supplies previously purchased by MSU customers, as between HAI, ATB and such consumers, and explain the relative rights between HAI and ATB in the proceeds from such sales.
- C. Assume for this subpart only that an involuntary bankruptcy petition is filed against MSU on August 1, 2012. Is there any change in the position of consumers who purchased equipment and supplies from MSU, assuming MSU was insolvent at the time of the sales? Explain your answer.

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Tom and Sue were married in 1970 in Tulsa, Oklahoma, where they have since resided. Together they have operated an antique shop in Tulsa since 1995. Their children have grown and reside in the Tulsa area.

Sue received word that her cousin had been hospitalized in Phoenix, Arizona and she convinced Tom that they should see about her. They agreed that they would make the trip by driving straight through.

After reaching the city limits of Phoenix, Tom, who had not slept in over fifty (50) hours, suggested that they eat something and freshen up before finding the hospital. While in a Phoenix restaurant, Tom, who was practically asleep on his feet, spilled his super heated coffee on Sue's upper torso, causing great pain and substantial third degree burns.

Following Sue's recovery and her return home, she filed a tort action against Tom in Tulsa County District Court seeking damages for the injuries she sustained in Arizona.

A Motion to Dismiss has been filed for failure to state a claim upon which relief can be granted. Tom asserts that since the alleged tort occurred in Arizona, the law of that state controls and under Arizona law, a spouse cannot lawfully sue his/her spouse for negligence. Sue's lawyer has filed a responsive brief asserting that Oklahoma law should apply. Under Oklahoma law, a spouse may lawfully sue his/her spouse for negligence. Tom has also sought dismissal for improper service of process.

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You are the trial judge assigned to Sue's case.

Questions:

- A. What state's law should you apply in ruling on the Motion to Dismiss for improper service of process? Explain your answer.
- B. How will you rule on the Motion to Dismiss for failure to state a claim? Explain your answer, being sure to discuss the effective arguments you expect to hear in support of each party's position.

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On his way to attend a playoff game of the Sooner City Lightning, a professional basketball team, Paul stopped at “Lightning Alley”. Located directly outside Lightning Arena, Lightning Alley is a site where activities are staged to entertain fans. Lightning Alley operates on a public street in Sooner City that is closed off from traffic, and it operates only on game days. Lightning Alley is operated by Cowboy Subcontracting, Inc., which pays a fee to Sooner City, a municipal corporation, to use the street. Cowboy Subcontracting also pays a fee to Lightning Basketball, Inc., the owner of the Sooner Lightning basketball team, to license the name “Lightning Alley”, which is displayed prominently on each of the activities. This license agreement also allows Cowboy Subcontracting employees, who operate the various activities, to dress in uniforms that prominently feature the name and logo of the Sooner City Lightning.

Paul decided he would like to climb the artificial rock wall located in Lightning Alley. After paying the fee of \$10, Paul, a 250-pound adult, signed a document entitled “Waiver and Release” that read:

“I understand that rock climbing is an inherently dangerous activity and, therefore, I assume full responsibility for any bodily injury, death or other loss resulting from those inherent dangers and from my negligence in participating in this activity.”

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A Cowboy Subcontracting employee then secured a harness attached to a rope around Paul's waist, and the employee held the other end of the rope while Paul climbed up the wall. When Paul was nearly at the top of the 25-foot wall, he reached for a hold that was initially secured to the wall by the wall's manufacturer, Wall Co., but was recently adjusted by a Cowboy Subcontracting employee.

The hold came off in Paul's hand, causing Paul to lose his balance and swing free of the wall. The harness failed to hold Paul, and he fell 25 feet to the ground. Despite a six-inch-thick pad on the ground, Paul sustained a broken leg. It was later determined that the harness, which was manufactured by Harness Co., snapped. A tag on the harness read: "Not to be used for climbers in excess of 200 pounds".

Questions:

- A. Paul wishes to assert a cause of action for negligence against Cowboy Subcontracting, Inc. What is the effect of the "Waiver and Release" on such a claim? Explain your answer.

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Assume for the purposes of subparts B through E that the “Waiver and Release” is not effective.

- B. Analyze the strength of Paul’s cause of action for negligence against Cowboy Subcontracting, Inc.

- C. After being sued, Cowboy Subcontracting, Inc. files third-party complaints against Wall Co. and Harness Co. Discuss those claims and their effect on the outcome of the case.

- D. Assume for this subpart only that Paul only asserted an action for negligence against Lightning Basketball, Inc. Analyze the strength of that claim.

- E. Assume for this subpart only that Paul only asserted an action for negligence against Sooner City. Analyze the strength of that claim.

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Acme Inc. is an Oklahoma corporation that owns numerous water parks in Oklahoma and elsewhere. Bill began the business, but he passed away several years ago. Upon his death, his stock in Acme passed to his children, John and Mary. The children had their own careers, so they hired Chuck, an experienced business man, to manage the company as its President. Over the years, the company has accumulated significant assets.

With the slowing economy, Chuck was anxious to reduce expenses. After considering that liability insurance is a large cost in Acme's business, Chuck had the grand idea of forming a separate corporation to operate each water park. This subsidiary corporation would substantially reduce expenses by only purchasing minimal liability insurance. Since the subsidiary would have limited assets, it would be safe from any judgment in excess of the insurance.

The Tulsa water park owned by Acme was sold to its newly formed subsidiary corporation, Sub-Acme Co. Sub-Acme made a small down payment on the purchase price (with funds provided by Acme) and the balance was secured by a mortgage on the water park. All stock in Sub-Acme is owned by Acme. Sub-Acme hired employees and operated the Tulsa water park. The officers of Sub-Acme are also officers or employees of Acme. The directors of Sub-Acme are also all officers of Acme. The only assets owned by Sub-Acme are a small bank account (containing funds furnished by Acme) and some pool related equipment such as chairs, and umbrellas. Its mortgage payments and operating expenses leave minimal profit to Sub-Acme. A small liability policy of \$5,000 was purchased by Sub-Acme. No shareholder or director meetings for Sub-Acme have ever been held.

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While replacing a diving board at the Tulsa water park, an employee of Sub-Acme failed to fully tighten the bolts securing the board. The board came loose while Paul was on the board and he fell awkwardly, sustaining substantial injuries.

Paul has brought suit against Sub-Acme. Your client is John, as one of the shareholders in Acme, and he is concerned about the lawsuit. John informs you he has recently learned that Chuck ignored the advice of the corporation's attorney, which was that sufficient liability insurance for the park operations should be obtained by each subsidiary corporation. John has the following questions:

Questions:

- A. Does Acme have any potential liability for Paul's injury at the park sold to and operated by its subsidiary, Sub-Acme? Explain your answer.
- B. Did Chuck act properly in not purchasing a larger liability policy? Explain your answer.
- C. Did Chuck do anything wrong by failing to follow the advice of the corporate attorney? Explain your answer, including a discussion of any right the company or John might have if Chuck's conduct was improper.

QUESTION NO. 14 (Page 1 of 1)

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

Cecil Smith had two children from his marriage to Darlene Smith. Over the years, Cecil and Darlene had limited contact with their children. Darlene died in 2009 and her estate has been completely administered. In 2010, Cecil made a handwritten Will bequeathing all of his property (worth an estimated \$10 million) to Rachel Tyler, a 36 year-old next door neighbor that befriended Cecil after Darlene died. Cecil signed and dated the Will, but the Will did not mention Cecil's children. On June 10, 2011, Cecil died at the age of 86. Rachel found the Will and submitted it for probate.

Cecil's two children visit your office and ask you to answer the questions listed below.

Questions:

- A. What type of Will did Cecil write and is the Will valid? Explain your answer.
- B. What rights or protection from disinheritance do the children have? Explain your answer.
- C. For the purposes of this subpart only, assume that (1) Cecil's Will expressly disinherits both children, (2) the children have discovered from medical records found at Cecil's home that Cecil had been experiencing delusions after the death of Darlene, and (3) they also discovered that Rachel asked Cecil to write the Will while he was visiting Rachel's home. On what grounds could the children contest the will? Explain your answer.

QUESTION NO. 15 (Page 1 of 2)

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

On June 1, 2005, Mr. Green and Mr. Blue executed two promissory notes in the aggregate amount of \$5,000,000 in order to purchase a manufacturing company. The first note was in the amount of \$3,000,000; the second note was in the amount of \$2,000,000. Both men signed both notes at the same time. Each note stated (1) that it might be renewed or extended by an agreement between the holder and any one of the parties and (2) that all parties would remain liable on the extension renewal as if it were the same agreement executed on June 1, 2005. The notes had a variable interest rate tied to the Treasury bill rate plus 1.5%.

On July 1, 2005, Mr. Blue and Mr. Green executed a contract in which Mr. Blue expressly agreed that he had benefited from and was responsible for 20% of the aggregate debt of the two notes. In this same contract, Mr. Green expressly agreed that he had benefited from and was responsible for 80% of the aggregate debt of the two notes.

When the first semi-annual payment on the first note was due, Mr. Blue was unable to pay his pro-rata share. Mr. Green paid his own pro-rata share on the first note and also paid Mr. Blue's pro-rata share.

After Mr. Green paid Mr. Blue's share on the first note, Mr. Green restructured the first note to provide for lower payments and a longer term for payment. Mr. Blue did not consent to this restructuring. The second note was not restructured.

QUESTION NO. 15 (Page 2 of 2)

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

Mr. Green has asked you to bring suit against Mr. Blue to enforce the two notes and the July 1, 2005 agreement. Mr. Green also wants you to recover the payments due from Mr. Blue for Mr. Blue's failure to pay his pro-rata share of the first note.

Questions:

- A. Is the Uniform Commercial Code applicable? Explain your answer.
- B. What causes of action can Mr. Green file against Mr. Blue? Explain your answer.
- C. What defenses can Mr. Blue assert? Explain your answer.

QUESTION NO. 16 (Page 1 of 2)

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

Paul and his immediate family are residents of Oklahoma. Paul has been employed by Okie Dokie Trucking for the past year. "Okie Dokie" is an Oklahoma corporation with its principal place of business in Pushmataha County, Oklahoma. He is an over-the-road trucker who travels and makes pick-ups and deliveries throughout most of the continental United States.

One day, Paul was in Idaho at a company named Dangerous Inc., unloading some freight shipped from Oklahoma. "Dangerous" is an Idaho corporation with its principal place of business in Boise, Idaho. While helping employees unload the freight, Paul was fatally injured when he was run over and kicked by a fork lift driver who was an employee of Dangerous. Dangerous is owned by a nationwide conglomerate named Big Boys, Inc. "Big Boys" is a Delaware corporation with its principal place of business in New York, New York. Big Boys also owns a sporting goods apparel store in Stillwater, Oklahoma, named Pete's Sport Apparel. "Pete's" is an Oklahoma corporation with its principal place of business in Payne County, Oklahoma.

Paul's widow retained an Oklahoma City attorney to assess her rights. The attorney informed her that she definitely has a potential worker's compensation claim against Okie Dokie, as well as a potential wrongful death claim against Dangerous. The attorney also informed her that jury awards in Idaho are very low and, in his opinion, the claim would be much more valuable in state court in Oklahoma. According to the attorney, to make a claim in Oklahoma

QUESTION NO. 16 (Page 2 of 2)

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

state court, she would have to forego the worker's compensation claim in Oklahoma and make, arguably, a tenuous claim for intentional acts against Okie Dokie in state court in order to destroy diversity.

After consultation with her attorney, Paul's widow files a lawsuit in Payne County. The lawsuit includes a claim against Okie Dokie for intentional acts and claims against both Dangerous and Big Boys for wrongful death. The lawsuit alleges that the amount in controversy is in excess of \$75,000.

Questions:

- A. Each Defendant files a motion to dismiss on grounds of lack of personal jurisdiction and improper venue. How should the court rule on their respective motions? Explain your answer.
- B. Assume for this subpart only that Okie Dokie was dismissed as a defendant. How might the court's ruling change on the motions presented by Dangerous and Big Boys? Explain your answer.
- C. Assume for this subpart only that the case was filed in federal court in Oklahoma. Does the court have subject matter jurisdiction? Explain your answer.