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

Sam is an eighteen year old student at Eisenhower High School (“EHS”) in Eisenhower, Oklahoma. EHS is a public high school with a very diverse student body. Jewish students comprise approximately twenty percent of the EHS student body.

The Eisenhower School District’s Board of Education has adopted certain policies regulating student dress and appearance at EHS. The policies do not permit attire that displays language, pictures or illustrations offensive to the general population or any clothing that causes a disruption in the educational environment. Under the policies, the EHS principal is the final authority in determining if certain attire violates the policies. The policies also provide that any student who willfully refuses to comply with the policies may be punished as the principal deems appropriate, including, but not limited to, suspension from school.

Sam shows up at school one day wearing a t-shirt with a picture of Adolf Hitler on the front and the large black words “My Hero” on the back. Sam’s first hour teacher immediately sends Sam to the principal’s office. EHS Principal Jones tells Sam that his t-shirt violates school policy in that it is offensive to the general population and specifically to EHS Jewish students.

Sam admits that he has a plain shirt in his locker. Principal Jones tells Sam that he must either change shirts or he will face suspension from school. Sam refuses to change the t-shirt and claims that the expression set forth on the t-shirt is protected by the U.S. Constitution. Sam further demands that, prior to any suspension, he be afforded a full hearing before the

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Eisenhower School District's Board of Education. In response to Sam's refusal, Principal Jones suspends him for three days. Sam serves his suspension and later returns to the school for the balance of the year.

Sam and his parents believe that his suspension violated his rights under the U.S. Constitution, and they are considering a lawsuit against the school district. Sam and his parents would like to be plaintiffs in any such lawsuit. They have asked you to research the facts and relevant law and advise them accordingly.

Analyze the legal claims that might reasonably be filed by Sam and/or his parents under the U.S. Constitution, identify who may assert those claims, and give an opinion as to whether you believe such claims would be successful. Explain your answers.

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Bill and Tom are best friends. Bill lives in Oklahoma, and recently lost his job with a home remodeling company. Tom lives in Wyoming, and has made a good living running his own oil and gas service business. It has always been Bill's dream to have his own business to buy distressed homes, remodel them and then sell the remodeled homes for a profit. Tom has agreed to participate in Bill's dream and finance his business. Bill has the necessary remodeling skills and tools and agrees to contribute his labor toward the business. Tom has business savvy and the necessary finances, and will fund the purchase and remodeling of the distressed homes. Bill and Tom have agreed to split any profits from the sale of the homes fifty-fifty. Knowing that some home buyers can't afford the high cost of home insurance, as an added inducement to potential purchasers of their remodeled homes, Tom would also like to offer their purchasers discounted home insurance. Tom does not want this remodeling business to be a long term project. Tom wants the business to cease after ten years. Bill is agreeable to having the business cease after ten years, but wants to know if there are any alternatives that would allow him to continue to operate the business alone after ten years.

Bill and Tom come to you for help. They would like to create a limited liability company to operate their business. Bill and Tom agree that they do not need a "manager" to run the business and that since they are such good friends the two of them can operate the company as members. However, in order to leave Bill free to focus on remodeling the distressed homes and

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preparing them for sale, Bill and Tom agree that Tom should be the company's registered agent and use his home for the company's registered office. Bill and Tom also want to limit, as much as possible, their potential exposure to third parties as a result of their involvement with the company and want to know whether they can shift their potential exposure to the company.

Answer the following questions using Oklahoma Law.

Questions:

- A. Can Bill and Tom engage in the proposed type of business using an Oklahoma limited liability company? Explain your answer.
- B. What document(s) need to be prepared and/or filed to begin a limited liability company and what must be contained in the document(s)? Explain your answer.
- C. If nothing is said in any formation or other document(s), can Bill and Tom operate the company without naming a manager? Explain your answer.
- D. Can Tom be the registered agent and have the registered office in his home? Explain your answer.
- E. What can Bill and Tom do to ensure that the business will not continue longer than ten years? Explain your answer.

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- F. What alternative(s) would you suggest to Bill and Tom that would allow Bill to continue operating the company beyond ten years? Explain your response.
- G. Bill and Tom would like to keep their paper work (and attorney fees) to a minimum, and ask whether they must have an operating agreement. Is an operating agreement necessary to accomplish Bill and Tom's objectives? Explain your answer.
- H. If nothing is said in any formation or other document(s), will the company be obligated to indemnify Bill and Tom from liability to third parties that may result from their acts as members? Explain your answer.

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Dave and Paula were married in 2009 and have enjoyed five wonderful years together in Craig County, Oklahoma. Last year they learned they were expecting their first child, a son, and were recently overjoyed by Cooper's birth in March. Two months ago, Paula stumbled upon an envelope that Dave received last summer, and it devastated her.

The envelope contained a Decree of Divorce between Dave and Betty. Unbeknownst to Paula, Dave was married to Betty from 2006-2013. In 2008, Dave had signed the Consent and Waiver, as well as the proposed Divorce Decree, but Betty had neglected to file those papers and finalize the divorce - until Betty wanted to remarry last year and finally filed the papers Dave had previously signed and mailed them to Dave.

Paula is furious that Dave was still married to Betty when Dave and Paula were married. Upset about Dave's deception, Paula moved back home to Delaware County, Oklahoma, three days after finding the envelope, and took Cooper with her. Cooper is not of Indian heritage. Forty-five days ago, Dave moved to Ottawa County, Oklahoma.

Yesterday, Paula decided to file for divorce. She hires you to institute appropriate proceedings. She wants alimony due to Dave's deception. Paula advises you they have no property, but have lived well on Dave's excellent income. Paula wants her attorney fees paid by Dave.

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Questions:

A. Are Dave and Paula married? Explain your answer.

For Questions B, C, D and E, assume Dave and Paula had a valid marriage:

B. In which County Court should the action be filed? Explain your answer.

C. Is jurisdiction proper in the County identified in your answer to Question B, for all issues? Explain your answer.

D. Should alimony be awarded to Paula? Explain your answer, including the amount and length of time if your answer is to make such an award.

E. Can the court award attorney fees? Explain your answer.

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Bob and Chris Homeowner have come to your law office and want to know if they have a case against Stone Company.

They began residence in their home in 1990 when it was considered to be on the outskirts of town. Over the years, the town has slowly enveloped them. They recently completed a total redecoration of their home, inside and out. They have truly enjoyed every moment in their home – until recently.

In late 2013, Stone Company completed construction of a manufacturing facility located approximately 150 yards from Bob and Chris's residence. Almost immediately after Stone Company began operations, Bob and Chris experienced excessive noise and dust emanating from Stone Company's facility.

It has been three months since Stone Company's operations began. The noise is now so loud and so intrusive that neither Bob nor Chris can sleep through the night. They now awake numerous times each night from what can be described, at best, as restless and unsatisfying sleep. They cannot carry on a casual conversation but must shout at each other to be heard. They can no longer enjoy television, radio or other audio devices purchased over the years.

The dust originating from Stone Company's operations prevents Bob and Chris from opening their windows or operating their exhaust fan. The dust is so pervasive that outdoor

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activities at their house have ceased. They cannot use their patio, their back yard or spend time in their flower beds. Dust covers all.

Questions:

- A. What cause or causes of action are available to Bob and Chris against Stone Company? Explain the legal elements of each. (40%)
- B. What remedies/recoveries do you advise Bob and Chris that they can expect if they are successful in court? Explain your answer. (40%)
- C. What defenses are expected to be raised by Stone Company? Explain your answer. (20%)

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Ned married Bertha in 1971 and had two children of the marriage, Kevin (now 32 years old) and Rusty (now 29 years old). Shortly after Rusty's birth, Ned executed a will (Will #1) drafted by his attorney and witnessed by two people. Will #1 granted Ned's entire estate to Bertha. In the event Bertha predeceased Ned, his entire estate was to be divided equally between Kevin and Rusty.

Ned was a college professor who spent one semester a year in California. While in California, Ned, unbeknownst to his wife and children, lived with his girlfriend, Jane. Ned and Jane had one child, Larry (now 20 years old). Ned supported Jane and Larry financially and held Larry out to be his son while in California. In 2010, Jane told Ned she would leave him and tell Bertha about their affair if he didn't draft a will granting his entire estate to her. Ned hand wrote a will (Will #2) deeding his entire estate to Jane and left it with her in California. He maintained his relationship with Jane and Larry until his death in January 2014.

After Ned's death, Bertha hired you to represent her in the probate of Ned's estate.

Questions:

- A. Was Will #1 validly executed? Explain your answer to include the requirements for executing a valid will in Oklahoma.

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- B. Was Will #2 validly executed? Explain your answer to include the requirements for executing a handwritten will.
- C. Which will controls distribution of Ned's estate? Explain your answer.
- D. Assume for this subpart only that Will #1 controls distribution of Ned's estate.
Determine who should receive what portions of Ned's estate. Explain your answer.
- E. Assume for this subpart only that Will #2 controls distribution of Ned's estate.
Determine who should receive what portions of Ned's estate. Explain your answer.

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In October 1956, Robert and Florence McKinney (collectively the McKinneys) purchased Blackacre consisting of the surface interest in and to Lots 1, 2, 3, 4 and 5 of Section 3.

On September 26, 1975, the McKinneys retired from farming and sold their land at public auction. The auction flyer advertised the sale to be divided into two parcels. The first parcel (Sale No. 1) identified the land as Lots 4 and 5. The second parcel (Sale No. 2) identified the land as Lots 3. Lots 1 and 2, which were part of the original 1956 deed to the McKinneys, were not mentioned in the flyer and apparently not included in the sale.

Lots 1 and 2 consisted of grass, trees and shrub land along the Red River. The lots were unsuitable for cultivation and were used primarily for running cattle, hunting, or access to the river for fishing or other recreational activities. The two lots were landlocked with no road access to them. Two sides of the lots abutted land owned by the Albert family, who had purchased the Sale No. 1 and Sale No. 2 parcels at the auction and received deeds to those parcels from the McKinneys.

The Albert family, in October 1975, following the auction purchase, had an abstract prepared that included Lots 1 and 2 in a map of the property and in the caption of the title opinion. The Albert family built a fence around the property, including Lots 1 and 2, and kept a gate with a lock on it, which would inhibit access when locked. In 1979, the Albert family granted a right of way/easement across all five lots to a pipeline company for an oil and gas

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pipeline. The Albert family posted “NO TRESPASSING” signs on various points along the borders of Lots 1 and 2 along with their other property.

In 1986, Florence McKinney, then a widow, deeded Lots 1 and 2, as described in the original 1956 deed, to Richard and Darlene Castor. After the Castors obtained title to Lots 1 and 2, they paid all of the ad valorem taxes for each year between 1986 through 2007 when the Albert family filed suit to quiet title under a claim of adverse possession. The Castors claimed that they held unbroken record title from the McKinneys and that the Albert family was clouding their title to Lots 1 and 2.

At trial, both parties presented evidence of use of Lots 1 and 2, either for cattle grazing, hunting or access to the river. The evidence showed that in 1987 the Castors asked an attorney to draft an agreement to present to the Albert family which, would allow them to permissively run cattle on Lots 1 and 2 in exchange for access to that property, but that the Albert family had never signed it. In 2005, the Castors asked the County Commissioner about the possibility of clearing a road to Lots 1 and 2. The Castors also claimed to have had a key to the gate erected by the Albert family at some point between 1986 and 2007.

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Questions:

- A. What are the elements of adverse possession or title by prescription?
- B. Which party has the burden of proof in this case, and what is the standard of proof?
- C. What effect does the payment of ad valorem taxes have upon a claim of, or defense to, adverse possession? Explain your answer.
- D. Should the Alberts or the Castors prevail on the lawsuit? Explain your answer.
- E. Assume for this subpart only that the Castors won the adverse possession lawsuit. If the Castors pursue their request for a road to be cleared through the Albert family property by filing a petition to condemn an access easement, what would the Castors have to demonstrate in order to prevail in that matter? Explain your answer.

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Arlene is a licensed attorney who has a small practice in a rural southeastern Oklahoma town where her family has lived for four generations.

On a Monday morning, Brad, who is Arlene's long-time client and also her former high school debate team member, comes by the office. Upon sitting down, Brad says: "Start the clock, I need some legal advice."

Brad then tells Arlene what she had already heard through the grapevine. He has bowel cancer and the prognosis is grim. First, he instructs her to prepare a simple will leaving all his assets to his wife, Clara, so she can care for their two small children. He then explains that he is in a great deal of pain and that the only medication that helps is marijuana, which is classified under Oklahoma law as a controlled dangerous substance. He asks her advice as to how to best avoid prosecution in obtaining the needed substance.

Arlene says, "I cannot advise you to do anything criminal." Then she winks broadly and continues, "I certainly cannot advise any criminal conduct like growing a few plants in your home, for personal consumption only, keeping quiet about the whole business, and betting that no federal agents are likely to kick down your door. I can't advise that because it would be criminal behavior. Furthermore, I would be shocked, shocked! if my legal assistant would help you find an online shop that sells grow lights."

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Arlene prepares the will, and Brad properly executes it, and pays Arlene \$500 for the service. Brad also engages in precisely the conduct which Arlene could not advise him to undertake, and Arlene's assistant does help Brad order a grow light online.

Within six months, Brad is in the hospital with little hope of recovery. Brad calls Arlene and asks if she would please bring him his "medicine" from his basement because Clara is too distraught to leave his side, and he doesn't trust anyone else enough to ask this favor. Arlene retrieves the substance from Brad's basement and drives toward the hospital.

Unfortunately, Arlene has a broken tail light, and she is stopped by Deputy Dave, a county sheriff's deputy who has known Arlene since he coached her in third grade basketball. In her haste, Arlene had left the marijuana in plain view on her passenger seat. Stunned, Deputy Dave asks her what she is doing with that stuff. In the hope that Deputy Dave will be compassionate and let her go on, Arlene discloses that the marijuana is not hers and explains everything about Brad.

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

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Paul was a franchisee of Hot Dog Heaven, a national fast food company. He operated a single shop in downtown Ponca City, Oklahoma. Paul's franchise bought flavored potato chips from a large company called Chip King. His shop was the only one in Ponca City that carried Chip King products. The franchise bought hot dogs from another large company, Queen Dog.

As a New Year's resolution for 2014, Paul decided he needed more personal income and vowed to spend every waking hour increasing the franchise's sales volume. Chip King required Hot Dog Heaven franchisees to order chips for three months at a time. On December 26, 2013, true to his resolution, Paul placed an order with Chip King for the first three months of 2014 that was four times larger than his normal order. In particular, he ordered by email \$4,000 worth of chips, divided equally among plain, barbeque, sour cream & onion, and salt & vinegar.

Chip King responded by email the same day that it would fill the order, but that it was no longer offering sour cream & onion. It said that it would substitute a new flavor, honey mustard, for sour cream & onion. It also made it clear (in bold-face type) that it was disclaiming any warranties, including any implied warranty of merchantability. Chip King's email said that it would begin to fill the order on December 31. Paul thought the honey mustard chips sounded tasty; he did not respond to Chip King's email. On January 2, 2014, he made the first of three monthly payments toward the large chip order.

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Paul's Hot Dog Heaven franchise had a great January and February. It tripled its normal gross receipts in both months, thanks in large part to a spike in demand for hot dogs in particular. At the end of February, Paul learned from another franchise that Queen Dog had announced on January 2, 2014 a special incentive: if any Hot Dog Heaven franchise sold more than 10,000 of its hot dogs during January, it would reward that franchisee with an all-expense-paid trip for two to New York City. Paul reviewed his records and discovered that his January hot dog sales were indeed over 10,000. He then informed Queen Dog by email that he had just learned of the reward and was claiming it.

March did not go so well. On February 28, a Tulsa resident died hours after eating a bag of Chip King honey mustard potato chips. Ponca City news outlets announced without any basis that Chip King's honey mustard flavoring may have been laced with poison. During March, no one in Oklahoma wanted to risk eating Chip King products. Indeed, many people did not even want to eat in shops that carried Chip King products. At the beginning of March, Chip King refused to take any of its product back or refund any of the franchise's money. Paul had to throw away all of the Chip King Chips he had bought for that month. As a result of the debacle with honey mustard chips, Paul's March sales sank to a quarter of his January sales.

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Two months later, investigators determined that the flavoring was not poisoned but did contain an allergen that could cause serious reactions in a tiny number of customers. The packaging included a warning about the possibility of an allergic reaction to this ingredient.

Questions:

- A. Did Paul's franchise have a contract with Chip King on December 30, 2013? Explain your answer. (30 points)
- B. As of the summer of 2014, could Paul's franchise prevail in an action against Chip King for breach of contract? Explain your answer. (20 points)
- C. Assume for this subpart only that Paul's franchise could prevail in an action against Chip King for breach of contract. Would damages include anything more than the cost of the honey mustard chips during March and lost profits from those chips? Explain your answer. (20 points)
- D. Queen Dog has decided that it does not want to reward Paul for his January hot dog sales. What is Queen Dog's best argument that Paul is not entitled to the trip to New York? Explain your answer. (30 points)

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Don Smith, a salesman residing in Texas, purchased a car in 2011 in Houston, Texas. The car was manufactured in Michigan, but the model was sold in all 50 states. Don was in Oklahoma in July 2013 for a sales convention. While driving through Durant, Oklahoma, the car suffered a mechanical failure and struck a car being driven by Jane Jones from Missouri. All claims exceeded \$100,000.

Questions:

For each of the following situations, identify (1) what the proper forum is, (2) what forum's substantive law should be applied, and (3) what forum's choice of law provisions should be applied. Explain your answers.

- A. Don wishes to sue the car manufacturer for products liability.
- B. Jane wishes to sue Don for negligence.
- C. Don wishes to sue the car manufacturer for breach of express warranty (and the warranty contains no choice of law provision).

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Dr. Feelgood is a board certified plastic surgeon with surgical privileges at Grace Memorial Hospital and at Cemetery Regional Medical Center. He needs a surgical assistant to help out in the operating room during his surgeries. Dr. Feelgood believes that his clinic's income is enhanced if he hires only very attractive people regardless of their intellectual qualifications. Under his thinking, potential patients will see his beautiful staff and assume they became beautiful due to plastic surgery performed on them by Dr. Feelgood. Sally Starlett applied for the surgical assistant position. Sally was a high school dropout and her only job has been as an exotic dancer. Despite having no education or training in any field of medicine, Dr. Feelgood hired her for the surgical assistant position and Sally has been working with Dr. Feelgood for the past five years.

Jerry James, an employee of Myopia Enterprises, Inc., drives a company truck to deliver glasses to ophthalmologists throughout Oklahoma. While driving to Dr. I.C. Squat's office to make a delivery, Jerry decided to take a two-block detour from his assigned mandatory route to pick up some fried chicken for supper from Clucking Chicken Restaurant. While on the detour, Jerry ran a stop sign and crashed into Karen Kraus. Being severely injured and unconscious, Karen was rushed by ambulance to Cemetery Regional Medical Center.

Upon arrival, Karen was rushed to the emergency room where she was seen by the emergency room doctor, Dr. Carmichael, who was rather nervous and negligently placed an

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endotracheal tube into Karen's throat, causing brain damage. Dr. Carmichael then called Dr. Feelgood, the plastic and reconstruction surgeon that was on-call. When Dr. Feelgood arrived at the hospital, he saw that emergency reconstructive surgery was needed. Karen was taken to the operating room. Dr. Feelgood, with the assistance of Sally, performed reconstructive surgery on Karen's face. Not being good at math, Sally miscounted the number of sponges used resulting in a surgical sponge being left inside Karen.

One month later, Karen received a bill from Doctors Billing Services, Inc. (the company Dr. Carmichael uses to send and collect bills for his medical services) for Dr. Carmichael's service in the emergency room. The bill correctly stated that Dr. Carmichael was not an employee of Cemetery Regional Medical Center. Karen was surprised to receive the bill because she has never heard of Dr. Carmichael or Doctors Billing Services, Inc.

Dr. Feelgood's clinic also sent a bill to Karen for his services and for Sally's services. The bill correctly stated that neither Dr. Feelgood nor his staff were employees of Cemetery Regional Medical Center. This was not a surprise to Karen since, several years before the accident, Karen's sister had a "nose job" done by Dr. Feelgood, and Karen had taken her sister to Dr. Feelgood's office for follow-up visits. While there, Karen met Sally and Sally had informed Karen about how she was hired by Dr. Feelgood.

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Questions:

- A. Assume Jerry was negligent when he ran the stop sign. Karen's attorney claims that Myopia Enterprises, Inc. should be liable for Jerry's negligence, but Myopia Enterprises, Inc.'s attorney disagrees. How should the judge decide? Explain your answer.
- B. Assume Dr. Carmichael's treatment of Karen was negligent. Would Cemetery Regional Medical Center be liable for Dr. Carmichael's negligence? Explain your answer.
- C. Assume Sally was negligent when the sponge was left inside Karen and assume Dr. Feelgood personally did nothing wrong. Is there a cause of action against Dr. Feelgood? Explain your answer.
- D. Assume Sally was negligent when the sponge was left inside Karen and assume Cemetery Regional Medical Center did nothing wrong. Is there a cause of action against Cemetery Regional Medical Center? Explain your answer.

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Richard and Paula Cashew own a successful nut company, known as RoCo's Fresh Roasted Nuts. The Cashews have been cultivating and selling nuts for over fifteen years. The Cashews make their profit by packaging and selling their nuts in kiosks at Penn Square Mall in Oklahoma City, Oklahoma and Promenade Mall in Tulsa, Oklahoma. They also sell RoCo's Fresh Roasted Nuts at the State Fair and multiple other festivals across the state. After twenty five years of living in Claremore, Oklahoma, located in Rogers County, the Cashews decided it was time to retire. They wanted to purchase a home in Missouri and spend the next several years traveling.

The Cashews approached a friend, Connie Crook, about buying the company, RoCo's Fresh Roasted Nuts. Crook was eager to accept because she knew the business was well known and successful. The Cashews and Crook met at the Cashew's ranch in Claremore and agreed on a purchase contract with the following terms: Crook would purchase all the rights to the business and the roasting equipment for \$150,000; Crook would pay the Cashews \$50,000 in advance and pay out the remaining \$100,000 in installment payments over the next two years; and the Cashews would loan Crook their trailer for hauling all the equipment until she could purchase her own. Crook lives in Tulsa, located in Tulsa County, and decided she could set up her own kiosk in all the shopping malls in Tulsa and sell RoCo's Fresh Roasted Nuts.

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It has been five years since the contract was executed and Crook has not paid off her debt nor has she returned the trailer. The Cashews believe the cost of the trailer is approximately \$5,000 and the debt remaining for the purchase of the company is \$50,000. The Cashews, who now live on Lake of the Ozarks in Benton County, Missouri, have contacted your law firm, an Oklahoma firm, and asked you to help them enforce the contract against Crook. You accept the case.

Questions:

- A. Can the lawsuit be filed in federal court or state court? Explain your answer.
- B. What is the appropriate venue? Explain your answer.
- C. Assume for this subpart only that you discover that Crook is about to sell the trailer to a third-party. Explain any procedural options you might have to delay or prevent the sale, including whether the third-party can or should be joined as a party to the lawsuit.

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Tee Company is a corporation that is wholly owned by John Smith. Tee Company buys large quantities of plain t-shirts and then prints logos, symbols or advertising on them for other businesses.

Tee Company bought new t-shirt printing equipment, but an unexpected decline in business left Tee Company unable to pay for the equipment. John Smith asked his personal friend, Frank Redman, to loan Tee Company \$5,000. Frank Redman agreed to loan money to Tee Company. As part of making the loan, Frank Redman had John Smith sign, as owner of Tee Company, a document which stated:

Tee Company owes \$5,000 to Frank Redman and will pay Frank Redman, with six percent interest, one year after May 21, 2013. If Tee Company does not pay, Frank Redman can take and sell all of Tee Company's t-shirts and equipment located at 104 N.E. Main, Oklahoma City, Oklahoma.

John Smith signed this document, as owner of Tee Company. Frank Redman made the loan by writing a \$5,000 check, payable to Tee Company. Tee Company deposited the check in its bank account and spent the \$5,000 on paying for the new equipment. No other documents were signed. No documents were filed with any government authority.

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Tee Company did not repay any of the loan within the time required. Because of that, Frank Redman took possession of 500 new, plain t-shirts that were at Tee Company's shop at 104 N.E. Main, Oklahoma City, Oklahoma. He also took all of Tee Company's equipment from the same location.

One week after he took possession, Frank Redman sold all of the t-shirts to various people who came to a garage sale, held at his house, and advertised in the local paper. For all of the 500 t-shirts, he got \$100. That was much lower than either the wholesale price or retail price for the t-shirts.

After trying to sell the equipment from Tee Company's shop for three weeks to various t-shirt printing shops, Frank Redman sold all of it to a business that bought and sold used equipment of that particular kind. He got \$2,000 for the used equipment. In the three weeks of trying to sell the equipment, Frank Redman determined that \$2,000 was the highest any dealer in that type of used equipment would pay. But, \$2,000 was less than a t-shirt printing company would pay for that kind of used equipment.

After crediting Tee Company with all money from the sales, Frank Redman still had not recovered all of the money he had loaned, with interest. Frank Redman sued Tee Company for the balance due on the loan. The following issues arose during the course of Frank Redman's suit and Tee Company's defenses to his suit.

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Questions:

- A. Did Frank Redman have a valid security interest in the t-shirts and equipment of Tee Company? Explain your answer and include the requirements to create a valid security interest.
- B. Was Frank Redman entitled to take possession of the t-shirts and equipment? Explain your answer and discuss the factors relevant to this issue.
- C. Were Frank Redman's sales of the t-shirts and the equipment proper? Explain your answer and discuss the standard used to resolve this issue.
- D. Was Frank Redman's loan to Tee Company a consumer credit sale governed by the Uniform Consumer Credit Code? Explain your answer and include the definition of a consumer credit sale.

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

Due to the increased concern for conserving the beauty and natural resources of the State of Oklahoma, the Oklahoma Legislature, pursuant to the Oklahoma Administrative Procedures Act and Article V of the Oklahoma Constitution, created an agency called the Oklahoma Department of Nature Conservation (referred to as "ODNC"). In creating this agency, the Legislature delegated rule making authority to the ODNC to facilitate the administration of policy. The ODNC has broad powers to regulate the state's recreational areas in order to beautify, protect and promote Oklahoma land.

For the past several years, individuals have erected semi-permanent kiosks that operate using gas generators within the state's recreational areas. These kiosks offer food, drinks, souvenirs and trinkets. The ODNC has received countless complaints from citizens alleging that these kiosks are taking over the recreational areas, ruining the natural beauty and serenity of the lands, and risking the public's health and safety by polluting the water in the recreational areas.

Joe Smith, the director of the ODNC, comes to you with the following questions. Assume that the Oklahoma Administrative Procedures Act applies (do not apply federal law), that the agency was properly created and is acting within the scope of its authority, and that the ODNC is not exempt from any of the laws governing agencies supported by public funds. Do not address constitutional law issues.

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

Questions:

- A. Joe Smith is concerned for the public health, safety and welfare due to the noise and water pollution caused by gas generators that operate the kiosks. He wants to know what steps the ODNC can take to quickly promulgate and enforce a new rule without following the permanent rule making process.
- 1) Explain the type of rule the agency may promulgate under such circumstances and describe the steps, in detail, of this specific rule making process.
 - 2) Explain how long this specific type of rule will be in effect.
 - 3) If the ODNC wants to establish or increase fees for the operation of the kiosks, may the ODNC use this expedited rule making process? Explain your answer.
- B. The ODNC wishes to promulgate a permanent rule requiring licensure of those who want to set up kiosks on the public recreational areas, place restrictions on the location of the kiosks, and regulate the use of gas generators. Explain in detail the entire process the ODNC must follow to promulgate the permanent rule.

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

Alice was involved in a personal injury car accident through no fault of her own. Alice retained Bobby, an attorney, for legal representation. Alice suffered medical expenses and property damages of \$20,000. Charles, the driver of the car that struck Alice, had insurance.

Alice went to meet Bobby for an initial consultation. After Alice told Bobby about her case, Bobby explained his fee schedule. Bobby's fee schedule was a contingency fee. Bobby explained that regardless of whether the case went to trial or settled by agreement, he would take 30% of the recovery if the case was resolved in 6 months, 50% of the recovery if the case was resolved between 6 months and a year, and 70% of the recovery if the case lasted over one year. These times start once the agreement for representation is signed. Bobby assured Alice her case was an "absolute slam dunk," and that he always settles these types of cases within 6 months. During the consultation, Alice explained that since her case was an "absolute slam dunk," she would like to settle the case for \$20,000 and get this nightmare over with as soon as possible.

Alice came back the next day after the initial consultation to sign the representation agreement. The representation agreement contained all of the required information. Bobby immediately sent a settlement letter to Charles' insurance company demanding \$35,000. Within the first three months after the initial consultation, Bobby received an offer to settle the case for a sum of \$25,000. Bobby thought he could get more money from the insurance company, so he rejected the offer of \$25,000 without any communication to Alice. As a result, the insurance company ended all settlement talks and said, "We'll see you in court."

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Bobby filed a lawsuit against Charles four months after the representation agreement was signed. After the lawsuit was filed, Bobby lost interest in the litigation because he had more lucrative cases to work. When pretrial hearings were set, Bobby would call the judge's secretary on the day of the hearing, make up an excuse as to why he could not make it to court, and have the hearing continued to a different date. One year and three months after being retained, Bobby showed up to a pretrial hearing only because he had another case set at the same time. The insurance company defending Charles opened settlement talks again and offered \$15,000. Bobby's significant work on the case consisted of preparing a settlement letter, preparing a petition and filing it, and showing up to court once.

Bobby called Alice and told her there was an offer on the table for \$15,000. Bobby told Alice that her case had a serious factual flaw and that she could get nothing at trial because of the flaw. Bobby also told Alice that the judge does not want to try her case because he has more serious cases on his docket. Bobby explained that she needed to take the offer because it was in her best interests. Alice followed Bobby's advice and agreed to settle, but only after Bobby agreed to reduce his fees to 60% of the recovery. Bobby received \$9,000. Alice received the balance, or \$6,000.

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

QUESTION NO. 15 (Page 1 of 4)

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

Harold and Maude Smith were married on June 15, 1950 in Durant, Oklahoma. With nothing but love and hard work, they started a construction business in their hometown of Durant. Three children followed soon after. While Harold did much of the field work in the business, Maude took care of the books, even while raising the children and maintaining their home. Harold decided to purchase a \$1,000,000 life insurance policy on his life early in their marriage. In case something should happen to him, Maude, who was named beneficiary, would be able to raise the children and, with careful management, be comfortable. In 1960, Harold and Maude went to their attorney, who provided to them a basic Mutual and Conjoint Will, which was properly executed in accordance with Oklahoma law. In the will, they each gave their estates to the other, naming each as their personal representative, or if they both died in a simultaneous occurrence, their property would be equally divided among their three children and their oldest child would serve as personal representative.

From the beginning of their marriage, Harold and Maude decided to have all of their property held in only Harold's name. Maude had signature authority on the business checking account, and also had signature authority on their personal checking account, but she had no ownership of any asset, including vehicles or their home. Coming from an extremely conservative background, this was not a cause for concern for Maude, for everything they had came from the construction business they started at the beginning of their marriage and, to her, was equally theirs.

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

Time passed. The children grew up and left home. Harold died suddenly of a heart attack on April 15, 2014. The funeral was full of family, personal friends and business associates. All of the employees of the construction company were present, including Bambi, Harold's personal secretary. A week after Harold's funeral, Maude decided to make an appointment with her lawyer to submit to probate their will from 1960. Before she was able to get in to see him, she received in the mail a notice of hearing and petition to probate the will of Harold Smith in the District Court of Bryan County, State of Oklahoma. Confused, she took the notice and petition to her lawyer. He explained to her that according to the petition, Bambi had submitted a document purporting to be the holographic will of Harold Smith, dated February 14, 2014. It read as follows:

"I, Harold Smith, declare this to be my last will and testament. I am married to Maude Smith, but I do not love her anymore. Life has been unbearable lately, until I met Bambi Bayer. In these few short months, I realize that she has been the love of my life. Therefore, I do not wish to leave anything to that woman who has made me miserable for so long. Instead, as a token of my undying love, I leave everything I own to Bambi Bayer, and want her to be my personal representative. February 14, 2014. S/ Harold Smith"

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

Maude recognized the handwriting of the purported will as Harold's, and expressed a feeling of betrayal directed both at Harold, her husband of nearly 64 years, and at Bambi, whom she hired, and, up to this point, liked. Further research showed that two weeks prior to Harold's death, he had changed the beneficiary of the \$1,000,000 life insurance policy to Bambi Bayer. Maude had cash in her purse and a stash she kept in a cupboard totaling \$2,250.00. She found the banks have frozen both Harold's household account and the business account pending the appointment of a personal representative.

You are an associate with the law firm Maude has consulted. You will be assisting the senior partner who asks you to answer the following five questions. While he is aware of the law and its application in this case, he wishes to see how accomplished you have become. He tells you that jurisdiction and venue are proper in this matter. He also tells you that the questions are of equal importance, and you should answer them concisely yet completely.

Questions:

- A. Is the holographic will valid under Oklahoma law? Explain your answer.
- B. Assume for this subpart only that the holographic will is valid. What rights (if any) does Maude have under that will? Explain your answer.

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- C. Assume for this subpart only that Maude decided to have you and your law firm attempt to admit to probate the Mutual and Conjoint will executed in 1960. What would likely be the outcome, assuming the holographic will is not valid? Explain your answer.
- D. Assume this subpart only that the holographic will is valid. Do Harold's children have any right to inherit from Harold under the holographic will and if they do, what would be their share and Bambi's share in the estate? Explain your answer.
- E. Does Maude have any rights to the life insurance policy proceeds? Explain your answer.

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

On their way home from the casino, Alex, Bill and Chuck were traveling down Highway 75. When they approached the Vape Haven, the local e-cigarette business, they noticed that all the lights were off and there were no cars in the parking lot. They knew that the owner, Jim, lived in the loft of the business, and wanted to wake him up to get some refills. They pounded on the doors and windows in an attempt to wake him up. No one ever responded. Alex, Bill and Chuck really needed nicotine, so they decided to pick the lock and help themselves.

Alex, having second thoughts after the lock was picked, decided to walk to the convenience store and buy some Marlboros because he is on probation. Bill and Chuck entered the business through the side door. Once inside, Bill and Chuck took \$1,000 worth of nicotine. Bill and Chuck exited the business the same way they came in. Unbeknownst to all three men, Jim was asleep inside at the time.

Bill and Chuck got back in the vehicle and nervously drove away. Shortly after getting back on the highway, a police officer noticed a broken taillight on the vehicle and pulled them over. When the officer made contact with Chuck, the driver, he noticed that he had slurred speech and red, glassy eyes. The officer asked Chuck to exit the vehicle and, when he did, what appeared to be a small glass vile of liquid fell out of his pocket. The officer then had Bill exit the vehicle and began searching the car for drugs. The officer found a baggie of marijuana in the glove box in front of where Bill was seated. A further search turned up the merchandise stolen

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

from the Vape Haven. The officer arrested both men. The owner Jim, later identified Alex on his security footage and Alex was arrested while walking home.

Questions:

- A. Was the officer's search of the vehicle lawful? Explain your answer.
- B. What crimes, if any, could Alex be charged with? Explain your answer.
- C. Assume for this subpart only that the officer's search of the vehicle was valid. What crimes could Bill be charged with? Explain your answer.
- D. Assume for this subpart only that the officer's search of the vehicle was valid. What crimes could Chuck be charged with? Explain your answer.