



CONNECTICUT BAR EXAMINATION
22 February 2011
QUESTION #1

Verdemont is a hypothetical state in the United States.

W, a citizen of Canada, was a passenger in a car owned and driven by X, also a citizen of Canada. The car collided with another vehicle owned and driven by Y, a citizen of Verdemont. The accident occurred in Verdemont. W sued X and Y in Verdemont state court to recover for his injuries, alleging that the accident was caused by the negligence of X or Y or both. W named as a third defendant Z, a local mechanic in Canada who had serviced X's car there, alleging that the accident was caused through Z's negligent maintenance. Personal service of the summons and complaint was made upon Y in Verdemont. Service on X and Z was made pursuant to the Verdemont long-arm statute.

X, Y, and Z all move to dismiss on the ground that the Verdemont court lacks personal jurisdiction over them. Evaluate each motion separately and discuss whether each motion should be granted or denied. Analyze fully.



CONNECTICUT BAR EXAMINATION
22 February 2011
QUESTION #2

Andy, a mechanic, decides to open his own automotive repair business. He contacts Bill, who owns a building suitable for the business. Bill agrees to provide the building to Andy for the business for 25% of the net profits of the business. Sally, a friend of Andy's, agrees to provide \$200,000 in capital to enable the business to purchase equipment in return for 15% of the net profits of the business. After the business is operating for two years, Andy negligently repairs the brakes on a car and the car owner, George, is injured as a result. Andy is found to be 100% liable for the injury to George.

Are either Bill or Sally liable for the injury to George? Explain fully.



CONNECTICUT BAR EXAMINATION
22 February 2011
QUESTION #3

Aaron died owning an eighty acre tract of rural land (Blackacre) that was undeveloped. Aaron was a widower and since he left no will, title to Blackacre descended by intestate succession to his two sons, Bill and Charlie. The subsequent probate of Aaron's estate confirmed title to Blackacre in Bill and Charlie.

One year after Aaron's death, Bill signed a promissory note in favor of the Last National Bank (Bank) and executed a mortgage of his interest in Blackacre to Bank to secure the repayment of the loan. Bank promptly recorded this mortgage.

Two years after Aaron's death, Charlie executed a ten year lease of Blackacre to Delta Corporation (Delta) of the north forty acres of the property. This lease granted Delta the exclusive right to possess the land and specified a rental of \$10,000 per year. At the same time, Charlie began to extract uranium from the south forty acres of the property and realized substantial profits from the sale of the uranium after payment of expenses.

Bill made payments to Bank for three years on the promissory note, but his gambling problems caused him to become insolvent. Bill defaulted on the loan by not making any payments on the promissory note for the past six months. Bank is prepared to foreclose on its mortgage and, in so doing, would be prepared to offer the highest bid at the foreclosure sale. Bank is concerned about the validity of its mortgage and, if it receives a sheriff's deed at the foreclosure sale, the remedies that it might possess as the successor in interest to Bill's interest in Blackacre.

Charlie is likewise concerned as to the effect of the foreclosure and his potential liability for his actions. Discuss the concerns of Bank and of Charlie, addressing the rights of Bank and the potential liabilities of Charlie. Analyze fully.



CONNECTICUT BAR EXAMINATION
22 February 2011
QUESTION #4

Phil sued Dan, a physician, for medical malpractice. With the parties unable to settle the lawsuit, the case went to trial. Phil lost. Phil filed an appeal, but he lost that as well.

With the case over, Fay ended her representation of Phil, and Wendy ended her representation of Dan.

Continuing to stew over his loss, Phil wondered about suing Fay for legal malpractice. He approaches Wendy, and asks if she would represent him in such a suit.

Discuss fully the issues in professional responsibility that Wendy must resolve before agreeing to represent Phil.



CONNECTICUT BAR EXAMINATION
22 February 2011
QUESTION #5

Robert, an anti-abortion activist, frequently attempted to dissuade women from going into an abortion clinic on Main Street. Ordinarily, women walked a short distance from the clinic parking lot onto a city sidewalk, then into the front door of the clinic.

Officer Bertrand, who was routinely assigned to protect the clinic, repeatedly warned Robert about trespassing onto clinic property and occasionally "had words with Robert."

One day, as Robert approached a clinic client, a large truck pulled into the lot, with some speed according to Robert, in a slow manner according to Officer Bertrand. Robert briefly stepped into the clinic parking lot to avoid getting hit.

Officer Bertrand immediately arrested him for trespass. Robert lost his temper and started shouting obscenities at Officer Bertrand, who then announced that he was also arresting Robert for a municipal code violation of "failing to obey a lawful order of a policeman with the intent of causing inconvenience, annoyance, and alarm."

The trial court acquitted Robert of the trespass charge, but convicted him on the code violation and fined him \$100. The court noted that it was clear the site was a "tense one" and needed to be closely policed to prevent dangerous things from happening.

Robert brought a separate civil action based on 42 U.S.C. § 1983 against Officer Bertrand and the municipality. Motions to dismiss were granted denying all relief.

Assume Robert appealed both decisions and raised all appropriate constitutional objections. What decisions and why? Analyze fully.



CONNECTICUT BAR EXAMINATION
22 February 2011
QUESTION #6

Z is a hypothetical state in the United States.

Z does not license separately practitioners of equine (horse) dentistry. James, however, has been practicing routine equine dental care under the supervision of a licensed veterinarian for thirty years. For example, James uses files to smooth horses' teeth and if minor cuts were found in the mouth applied salt or baking soda. Such actions were similar to those of laypersons who provide services such as horse-shoeing, branding, dehorning, and tail docking.

A rule recently promulgated by Z's Racing Board (Racing Board) defines equine dentistry as part of veterinarian medicine.

James was notified by the Racing Board that he could no longer practice equine dental care and offered a cease-and-desist order which he declined to sign. The Racing Board refers such matters to an administrative law judge in Z for a hearing if no response is received. Two weeks later the Racing Board notified James' supervising veterinarian that if he continued using James' services, the veterinarian could jeopardize his own license. James was told he could no longer work for the veterinarian.

James brought suit in Z's trial court of general jurisdiction seeking an injunction against the Racing Board and a declaratory judgment that the contemplated actions of the Racing Board were unconstitutional. Among other arguments, he noted that Z's statutes define veterinarian care as "diagnosing or treating" horses. Z law defines veterinarian licensure as covering veterinarian medicine, and surgery (but does not include dentistry, as some other states do).

Discuss fully how Z's trial court will decide the case.



**CONNECTICUT BAR EXAMINATION
22 February 2011**

QUESTION #7

From the Multistate Essay Examination

On May 5, at 2 p.m. in City Park, Victim was hit from behind and temporarily knocked unconscious. Upon regaining consciousness moments later, Victim discovered that his bag containing valuables had been stolen.

While investigating the crime later that day, Police Officer interviewed Witness. Witness told Police Officer that she had seen the robbery of Victim and had recognized Defendant, a resident of the neighborhood, as the perpetrator. Witness also told Police Officer that Defendant had a reputation in the neighborhood for violence, that everyone was afraid of him, and that she shouldn't be talking to the police at all. Nevertheless, Witness agreed to accompany Police Officer to police headquarters, where she looked at photographs of suspects and signed a written statement. The statement read, "I was walking in City Park on May 5, at 2 p.m., when I saw Defendant. I saw Defendant attack Victim and then run away with Victim's bag. I know Defendant from the neighborhood and recognized Defendant as suspect number 1 on the 12-person photograph display shown to me today by Police Officer."

Defendant was subsequently arrested and charged with robbery and assault.

At Defendant's trial, Prosecutor called Witness to the stand. In response to questions from Prosecutor, Witness testified that she had no memory of the incident. She stated that she did not remember seeing anyone in City Park at the time of the alleged robbery. When Prosecutor asked Witness whether her sudden memory loss was because she was afraid of Defendant, Witness said that she had never seen Defendant before in her life and was not afraid of him because she did not know him. When Witness was asked whether she had told Police Officer that Defendant had robbed Victim, Witness denied ever making that statement.

Immediately after this testimony, Prosecutor offered Witness's signed statement into evidence to impeach Witness's credibility and to prove that Defendant was in City Park and attacked Victim. An authenticated copy of Witness's statement was provided to Defense Counsel. Defense Counsel raised no constitutional challenges to Witness's identification of Defendant at police headquarters. However, Defense Counsel objected to Prosecutor questioning Witness about the statement and to admission of the copy of the statement. The judge sustained both objections.

After the prosecution had rested, Defense Counsel called Buddy to the stand. Buddy testified that he had never met Defendant. He also testified that some of his friends had recently met Defendant a few times, and that they think that Defendant is an honest and gentle person who would never hurt anyone. Prosecutor objected to this testimony. The judge sustained the objection and excluded Buddy's testimony.

The rules of evidence in this jurisdiction are identical to the Federal Rules of Evidence.

1. Should the judge have permitted Prosecutor to question Witness about Witness's written statement and admitted the copy of the statement to impeach Witness's credibility? Explain.
2. Should the judge have admitted Witness's written statement to prove that Defendant was in City Park and attacked Victim? Explain.
3. Should the judge have admitted Buddy's testimony to prove Defendant's character for honesty and gentleness? Explain.

© 2011 National Conference of Bar Examiners (NCBE)
Reprinted with permission of NCBE.
May not be copied, disseminated or reproduced.



**CONNECTICUT BAR EXAMINATION
22 February 2011**

QUESTION #8

From the Multistate Essay Examination

Astronomy Corporation (Astronomy) sells expensive telescopes to home stargazers. Astronomy has a long-term financing arrangement pursuant to which it borrows money from Bank. In a signed writing, Astronomy granted Bank a security interest in all its present and future inventory to secure its obligations to Bank under the financing arrangement. Bank filed a properly completed financing statement reflecting this transaction. The financing statement lists Astronomy as the debtor and Bank as the secured party. The financing statement indicates that the collateral is inventory.

Astronomy sells telescopes to some of its customers on credit. For a credit sale, Astronomy requires the customer to sign an agreement granting Astronomy a security interest in the purchased item to secure the customer's obligation to pay the balance of the purchase price.

Six months ago, Johnson, an amateur stargazer, went to Astronomy's showroom, saw a \$3,000 telescope that he liked, and bought it on credit from Astronomy. Johnson paid \$500 in cash and agreed to pay the \$2,500 balance in installment payments of \$100 per month for the next 25 months, interest free. Consistent with Astronomy's policy for credit sales, Johnson signed an agreement granting Astronomy a security interest in the telescope to secure Johnson's obligation to pay the balance of the purchase price. Astronomy did not file a financing statement with respect to this transaction. At the time of the sale of the telescope to Johnson, Johnson was unaware of the financial arrangement between Astronomy and Bank.

One month ago, Johnson sold the telescope for \$2,700 in cash to his neighbor, Smith, another amateur stargazer. Smith had no knowledge of any interest of Bank or Astronomy in the telescope. Johnson then left the country without paying the remaining \$2,000 owed to Astronomy and cannot be located.

One week ago, Astronomy defaulted on its obligations to Bank.

Both Bank and Astronomy have discovered that Johnson sold the telescope to Smith. Bank and Astronomy each have demanded that Smith surrender the telescope on the grounds that it is collateral for obligations owed to them.

1. Does Bank have a security interest in the telescope that is enforceable against Smith? Explain.
2. Does Astronomy have a security interest in the telescope that is enforceable against Smith? Explain.



**CONNECTICUT BAR EXAMINATION
22 February 2011**

QUESTION #9

From the Multistate Essay Examination

After recent terrorist threats, Metro Opera (Metro) decided to place metal detectors in its lobby. Metro also marked off an area just beyond the metal detectors in which to search patrons who failed the metal-detector test. Metro posted a sign near the entrance that read: "Warning! No metal objects allowed inside. All entrants are screened and may be searched."

Claimant and Friend saw the warning sign as they entered Metro. After entering, they observed several patrons being frisked. Claimant said to Friend, "I'm certainly not going to allow anyone to touch me!"

Claimant then walked through the metal detector, which buzzed. Without asking Claimant's permission, Inspector, a Metro employee, approached Claimant from behind and began to frisk Claimant. Claimant leaped away from Inspector and snarled, "Leave me alone!" Guard, another Metro employee, then used a stun device, which administers a painful electric shock, to subdue Claimant.

Unfortunately, the stun device, manufactured by Alertco, malfunctioned and produced a shock considerably more severe than that described in Alertco's product specifications. The shock caused minor physical injuries and triggered a severe depressive reaction that necessitated Claimant's hospitalization. Claimant had a history of depression but was in good mental health at the time of the shock. Claimant was the first person who had ever experienced a depressive reaction to the Alertco device.

The Alertco device malfunctioned because it was incorrectly assembled at the factory and therefore did not meet Alertco's specifications. Alertco's assembly-inspection system exceeds industry standards, and it is widely recognized as the best in the industry. Nonetheless, it did not detect the assembly mistake in the device that injured Claimant.

Claimant has filed two tort actions seeking damages for her physical and psychological injuries: (1) Claimant sued Metro, claiming that both the frisk and the use of the stun device were actionable batteries, and (2) Claimant brought a strict products liability action against Alertco.

Metro has conceded that the actions of Inspector and Guard were within the scope of their employment. Metro had instructed its employees to ask permission before frisking patrons, but on the day Claimant was frisked, a supervisor told employees to frisk without asking permission in order to speed up the entrance process.

1. Can Claimant establish a prima facie case of battery against Metro for (a) the use of the stun device and (b) the frisk? Explain.
2. Does Metro have a viable defense to either battery claim? Explain.

3. Can Claimant establish the elements of a strict products liability claim against Alertco based on the malfunction of the device? Explain.
4. Assuming that Claimant establishes either Metro's or Alertco's liability, can Claimant recover for her depressive reaction to the stun device? Explain.

© 2011 National Conference of Bar Examiners (NCBE)
Reprinted with permission of NCBE.
May not be copied, disseminated or reproduced.



**CONNECTICUT BAR EXAMINATION
22 February 2011**

QUESTION #10

From the Multistate Essay Examination

Designer and Retailer entered into a legally binding contract for Designer to maintain Retailer's website. Under the terms of the written contract, Retailer was to pay Designer \$20,000 per year. Retailer made timely payments for two years.

Eight months before the third year's payment was due, Designer learned of an investment opportunity. Designer called Retailer and said, "I need cash quickly to make an investment that will enable me to make a \$35,000 profit. I know that you owe me \$20,000, but if you promise now to pay me \$15,000 in cash by the 25th of this month, I will accept that payment as satisfying your obligation under our contract for this year."

Retailer responded, "Thanks. That's a good deal. I don't have the cash to pay you now. I'll do it if I can get a loan."

"That will be great," responded Designer.

Because Designer assumed that Retailer would provide the cash Designer needed, Designer did not try to raise the cash from another source.

Retailer, however, was busy with other matters. He visited two banks and picked up loan applications, but he never bothered to submit them. Retailer did not take any other action to obtain a loan before the 25th of the month had passed.

When the 25th of the month passed without payment from Retailer, Designer telephoned Retailer. The moment that Retailer heard Designer's voice saying "Hello," Retailer quickly said, "Sorry, but I can't take you up on your offer to accept early payment."

Designer was shocked and angered. He had counted on that money. He can prove that he would have gained \$35,000 had he been able to make the planned investment.

Designer has sued Retailer for actual damages plus punitive damages.

1. Is Retailer liable for breach of contract? Explain.
2. Assuming that Retailer is liable, can Designer recover his actual damages from Retailer? Explain.
3. Assuming that Retailer is liable, can Designer recover punitive damages? Explain.



CONNECTICUT BAR EXAMINATION
22 February 2011

QUESTION #11

From the Multistate Essay Examination

Plaintiff, a citizen of State B, was vacationing in State A, where he visited the O.K. Bar. While he was at the bar, Plaintiff was attacked and seriously beaten by Dave, a regular bar patron and a citizen of State A. Bartender, a citizen of State A, attempted to stop the attack and was also injured by Dave.

Plaintiff sued Dave and Bartender in the United States District Court for the District of State A, properly invoking the court's diversity jurisdiction. Plaintiff's complaint states a state law battery claim against Dave, seeking damages from Dave in excess of \$75,000. Plaintiff's complaint also states a claim against Bartender based on Bartender's alleged negligence in serving alcohol to Dave after Dave became visibly intoxicated and belligerent. Plaintiff's complaint seeks damages from Bartender in excess of \$75,000. Plaintiff's damages claims are reasonable in light of the injuries Plaintiff suffered in the attack.

Dave was personally served with the summons and complaint. However, the process server could not find Bartender. He therefore taped the summons and complaint to the front door of the O.K. Bar, where Bartender found them the next day.

Bartender made a timely motion to dismiss Plaintiff's complaint for failure to state a cause of action. When that motion was denied by the district court judge, Bartender filed a second motion to dismiss for insufficiency of service of process. The judge also denied that motion.

Bartender then filed an answer to the complaint, denying liability. The answer also stated a state law claim for battery against Dave, seeking \$20,000 damages for the injuries Bartender suffered when he tried to stop Dave's attack on Plaintiff.

Dave has moved to dismiss Bartender's cross-claim on the grounds of improper joinder and lack of subject-matter jurisdiction.

1. Did the United States District Court for the District of State A properly deny Bartender's motion to dismiss for insufficiency of service of process? Explain.
2. Do the Federal Rules of Civil Procedure permit Bartender to join a claim for battery against Dave in Bartender's answer to Plaintiff's complaint? Explain.
3. Assuming that the Federal Rules of Civil Procedure permit Bartender to join his state law claim against Dave, does the United States District Court for the District of State A have subject-matter jurisdiction over that claim? Explain.



**CONNECTICUT BAR EXAMINATION
22 February 2011**

QUESTION #12

From the Multistate Essay Examination

Two years ago, Testator purchased a \$50,000 life insurance policy and named Niece as beneficiary.

One year ago, Testator invited three friends to dinner. After dessert had been served, Testator brought a handwritten document to the table and stated, "This is my will. I would like each of you to witness it." Testator then signed and dated the document. The three friends watched Testator sign her name, and immediately thereafter, they signed their names below Testator's name.

One month ago, Testator died. Testator was survived by Niece, Cousin, and Son. Son is Testator's child from her first marriage. Testator's second husband, Husband, died six months before Testator. Husband's daughter from a prior marriage also survived Testator.

The handwritten document that Testator signed and that the three friends witnessed was found in Testator's desk. Its dispositive provisions provide in their entirety:

*I, Testator, hereby make my Last Will and Testament.
I give my life insurance proceeds to Cousin.
I give the items listed in a memorandum to be found in my safe-deposit box to Niece.
I give \$25,000 each to Church, Library, and School.
I give \$40,000 to Husband.
I give the remainder of my assets to Son.*

At Testator's death, she owned the following assets:

1. The \$50,000 life insurance policy, payable on Testator's death "to Niece"
2. Jewelry worth \$15,000
3. A bank account with a balance of \$60,000

The jewelry was found in Testator's safe-deposit box with a handwritten memorandum signed and dated by Testator the day before she signed her will. The memorandum lists each piece of jewelry and states, "I want Niece to have all the jewelry here."

The terms of Testator's life insurance contract provide that the beneficiary may be changed only by submitting the change on the insurer's change-of-beneficiary form to the insurance company.

State law explicitly disallows "all holographic wills and codicils." To be valid, a will must be "acknowledged by the testator to the witnesses and signed by the testator in the presence of at least two attesting witnesses, who shall sign their names below that of the testator within 30 days."

1. Is Testator's will valid? Explain.
2. Assuming that Testator's will is valid, who is entitled to
 - (a) Testator's life insurance policy? Explain.
 - (b) Testator's jewelry? Explain.
 - (c) Testator's bank account? Explain.

© 2011 National Conference of Bar Examiners (NCBE)
Reprinted with permission of NCBE.
May not be copied, disseminated or reproduced.