

Question Number 1

Seller, owner of Lots 1, 2 and 3 in Anytown, Ohio, agreed to sell the lots to Buyer. Buyer intended to place a mobile home on each lot, and Seller assured him that he knew of nothing that would prevent him from doing so.

The written, signed contract for the sale of the lots specified the price for each lot to be paid by Buyer on separate closing dates and provided that Seller would pay his share of the prorated real estate taxes on each lot as of the closing date. The contract also provided that the lots were free and clear of all encumbrances.

The following events occurred in connection with each of the lots:

LOT 1: The closing statement setting forth the financial details regarding Lot 1 failed to allocate any of the real estate taxes to Seller. It was an inadvertent oversight. The deal closed with the entire amount of the taxes allocated to Buyer. Buyer received and recorded a properly executed warranty deed stating that Lot 1 was conveyed "subject to taxes now a lien." Three weeks later, when Buyer noticed the oversight, he demanded payment from Seller of Seller's share of the taxes. Seller refused, saying, "I do not have to pay those taxes now."

LOT 2: At closing, Buyer paid the agreed purchase price for Lot 2 and accepted delivery of a properly executed warranty deed from Seller. At the time, Buyer and his wife ("Wife") were in the midst of a divorce proceeding and, in an effort to avoid having to list Lot 2 on the schedule of property subject to division by the court, Buyer decided not to record the deed and to retain it unrecorded in the safe in his office. When Wife found out about the Lot 2 transaction, she requested that the court include Lot 2 as divisible property. Buyer opposed such inclusion, arguing that, as long as the deed to Lot 2 remained unrecorded, he could not be the owner of that property.

LOT 3: Two weeks before closing on Lot 3, Buyer received a letter from Save the Fox Alliance ("SFA") informing him that an earlier lawsuit brought by SFA to protect the habitat of the red fox had resulted in a court-approved settlement in which Lot 3 and the surrounding area was declared to be within the red fox's habitat and that placing any structure, including a mobile home, on Lot 3 would be unlawful. Buyer contacted Seller, who said he knew nothing about any such restriction. Buyer therefore proceeded with the closing and received a warranty deed to Lot 3.

Soon after the closing, Buyer had second thoughts about SFA's letter, so he retained a title company to search the land records regarding Lot 3. In that search, the title company learned from a collateral source that, at a time before Seller had acquired Lot 3, the restriction reported by SFA had in fact been promulgated but that no document evidencing the restriction had ever been recorded in any land records anywhere.

Also, in the course of searching the records, the title company discovered a recorded lien in the amount of \$2,000 on Lot 3. The lien had been recorded by Groundscape for landscaping services that Seller had contracted but never paid for. Buyer demanded that Seller pay the \$2,000 to clear the lien. Seller refused.

- (1) Is Seller liable for any of the real property taxes on Lot 1?
- (2) How should the divorce court rule on Buyer's argument that he is not the owner of Lot 2?
- (3) Is the land use restriction on Lot 3 asserted by SFA enforceable against Buyer?
- (4) Is Seller liable to Buyer for the \$2,000 Groundscape lien?

Explain your answers fully.

Question Number 2

Ken is in the business of supplying copper building materials to construction contractors throughout the State of Ohio. In 2009, he entered into the following contracts, all of which were in writing and no Statute of Frauds issues were involved:

Structural Steel Contract with George: George agreed to erect the structural steel for a new warehouse that Ken was constructing for use in his business. The agreement required that George complete the work by May 1, 2009, and provided that in the event of a dispute between the parties, they would refer the dispute to binding arbitration. George did not complete his work until May 7, 2009. Because of the delay, Ken refused to make the final payment. George filed a lawsuit in State Court in Ohio demanding full payment. Ken filed a counterclaim to recover delay damages even though he could not prove that the delay had cost him anything. Immediately thereafter, George filed a motion to compel Ken to arbitrate the matter pursuant to the agreement.

Contract with Ben for Installation of Copper Plumbing: Ben agreed, for \$5,000, to install copper plumbing in Ken's new building. Payment was to be made at the completion of the work. Upon completion, Ken discovered that Ben had used plastic piping, which was cheaper than copper but which met all building code requirements and was deemed in the trade to be as functional as copper. Ken refused to pay Ben anything until he replaced the plastic with copper. Ben sued Ken in State Court in Ohio for full payment less the difference between the cost of copper and plastic.

Contract with Mary's for Desks and Chairs: Ken contracted with Mary's Office Furniture (Mary's) to purchase 20 desks and 20 matching chairs. Under the agreement, payment was due on May 15, 2009, and delivery by Mary's was to be made on May 22, 2009. On May 10, 2009, Ken read a newspaper article reporting that Mary's was having financial problems. "To prove Mary's ability to perform," Ken demanded delivery of the desks and chairs on May 15, 2009, concurrently with Ken's payment. Mary's responded that it was not possible to accelerate the delivery date, but told Ken there was no need to worry and that the delivery would be made on May 22, 2009, as promised.

Carl's Contract to Paint Ken's Office: Carl agreed to paint Ken's office, payment to be made at completion of the work. While he was painting the office, Carl overheard a remark by Ken's assistant to the effect that her last paycheck had bounced and she hoped that Ken would be able to pay her salary. Carl immediately stopped work and told Ken what he had overheard. Carl asked Ken to set up an escrow account to guarantee that he would be paid upon completion. Ken said that there was no substance to the overheard remark and told Carl just to go ahead and finish the job.

(1) What is Ken's best argument in opposition to George's motion to compel arbitration in the structural steel contract dispute, and what is the likely outcome?

Regardless of whether the structural steel dispute is litigated in court or arbitrated, what is the likely outcome of George's claim for the final payment and Ken's counterclaim for delay damages?

(2) Who should prevail in Ben's suit against Ken on the copper plumbing contract?

(3) Can Ken lawfully terminate the desk and chairs contract with Mary's?

(4) Can Carl lawfully terminate his painting contract with Ken?

Explain your answers fully.

Question Number 3

Defendant was charged with murder in the State of Ohio. His trial took place in the Court of Common Pleas subject to the Ohio Rules of Evidence.

- (1) During the prosecutor's opening statement and before the items were offered and received in evidence, the Court allowed the prosecutor to show the jury several charts created by the prosecutor, photographs of the victim, and other photographs of the area where the crime occurred, all of which were objected to by the defense. The photographs of the area where the crime occurred were later offered but not received in evidence. The charts and photos of the victim were later received in evidence as exhibits.
- (2) State's witness 'A' testified that he reviewed several written statements before he came in to testify at trial to help him prepare for his testimony and recall the incident. Defense counsel's motion to require the State to produce those writings for inspection and use in cross-examination was denied by the Court.
- (3) State's witness 'B' used a writing to refresh her recollection while testifying. Defense counsel's motion to inspect the writing and use it in cross-examination was granted.
- (4) State's witness 'C' was a cooperating co-defendant who had made a deal with the State to plead to a lesser charge in return for testimony against the defendant on trial. On direct examination, the State asked him about his prior criminal record, to which defense counsel objected, but the objection was overruled. When the State asked the co-defendant witness on direct examination if he made the deal in return for his "honest and truthful" testimony, defense counsel's objection to the question was sustained.
- (5) Five gruesome photographs showing slightly different views of the victim as he lay dead at the scene were shown to witnesses at trial, who testified that those photos accurately represented what they saw. Several autopsy photos of the victim, taken from different angles and equally gruesome, were also introduced as exhibits and testified to by the pathologist as accurate representations of what was depicted in the photos. Over Defendant's objections, the Court allowed all of the photos into evidence.
- (6) The State closed its case with witness 'D', who testified that he had no present memory of the event in question but had written himself a memo of what he saw shortly afterward because of his inability to remember startling events. When the Court allowed D's statement to be read to the jury, Defendant's objection was overruled. The Court also overruled Defendant's objection to the Court's ruling that allowed the memo to be received as an exhibit.
- (7) The defense called an alibi witness who testified Defendant was with him at another location when the crime occurred. The prosecutor questioned the witness about his "broken English" accent and his ethnic background, as well as his belief in the Ten Commandments. The Court overruled Defendant's objection to these areas of questioning.

You may assume that, in each of the foregoing situations, all grounds for the objections and motions were properly asserted by counsel.

Explain fully whether the Court properly ruled on each of the objections and motions in each of the situations above and why.

Question Number 4

Maggie had been experiencing chronic pain in her left knee for years. Her Doctor in Anytown, Ohio, recommended knee replacement surgery. Doctor planned on using a joint prosthesis named New-Knee that its manufacturer, Orthod, had recently introduced on the market. Because Doctor had never used New-Knee before, he engaged Surgeon, with Maggie's approval, to assist him during Maggie's surgery. Before the surgery, Surgeon told Doctor that sizing the New-Knee device had proven difficult in the pre-market trials. They nevertheless used the New-Knee device. Maggie continued to see Doctor for follow up after the surgery because she still experienced knee pain, but she never saw Surgeon again.

Very soon after the knee surgery, Maggie and her husband divorced. He has joined the Peace Corps and moved to Equatorial Guinea.

Fifteen months after the knee surgery, Maggie was hit by a truck while driving to work. Truckdriver ran a red light. She was admitted to the hospital, where she was examined by Doctor. Maggie had a broken right leg. Her left knee was swollen and painful on examination. Doctor told Maggie that Orthod had taken the New-Knee device off the market because of complaints of defective design.

Medical expenses from the accident totaled \$100,000. These expenses were paid by Maggie's healthcare insurer, Scarlet Shield, an Ohio company. In accordance with the health insurance policy, Maggie executed an assignment of subrogation rights to Scarlet Shield giving it the exclusive right to recover the medical costs from Truckdriver.

Maggie retained Lawyer. On behalf of Maggie, Lawyer filed a personal injury suit against Truckdriver to recover damages to both legs. Lawyer also filed a malpractice and product liability suit against Doctor and Orthod. Lawyer did not join Surgeon because the statute of limitations had run against Surgeon.

Doctor filed two motions: (i) to dismiss Maggie's malpractice claim for failing to join Surgeon as an indispensable party; and (ii) to dismiss Maggie's malpractice claim for failure to join Husband as a necessary party.

Truckdriver filed a motion to dismiss Maggie's personal injury complaint for failure to join Scarlet Shield as a necessary party.

Assume all motions properly raise issues of joinder under the Ohio Rules of Civil Procedure.

How should the Court rule on each of the three motions? Explain your answers fully.

Question Number 5

Farmer signed a valid promissory note in 2003 in favor of Creditor in the amount of \$100,000, which note was secured by Farmer giving Creditor a secured interest (properly perfected) in the following collateral: one Ford pick-up truck ("truck"), a combine (a very large and cumbersome piece of farming equipment used to harvest Farmer's crops), and a rare painting painted by a talented but obscure Eighteenth Century artist. The note required monthly payments and provided that failure to make any payment when due constituted an event of default. The note did not specify a grace period for curing any default. It was also silent as to whether the failure by Creditor to enforce prior defaults waived Creditor's right to strictly enforce any future default.

During the years 2004 through 2007, Farmer missed several payments but Creditor did not complain and allowed him to simply "catch up" in subsequent months. In 2008, however, when Farmer again missed a payment, Creditor gave Farmer written notice declaring the note to be in default. Shortly thereafter, Creditor took the following actions:

- (1) Creditor hired his friend Bill, a city policeman, to go to Farmer's house one day when Bill was off-duty from the police department and repossess the truck. When Bill arrived, Farmer got very excited and objected strenuously to Bill's taking of the vehicle. Bill "flashed his badge" and took the truck anyway.
- (2) The next day, with Farmer's consent, Creditor came onto Farmer's property "to talk about all of this." Creditor walked straight up to the combine, which was sitting in a field, and removed the distributor cap from the combine so it would not operate. Creditor told Farmer that he was going to "sell it off right here in your field where it sits."
- (3) In a state of total shock, Farmer invited Creditor into his house to "see if we can't settle this amicably." When Creditor entered Farmer's house, he took the painting from the wall and left with it, saying, "This is mine now, you deadbeat."
- (4) Creditor later, without publicly advertising the sale of the painting, simply held a "private sale" and sold it to himself for \$10,000, which, for lack of an otherwise ascertainable value, he thought was probably a fair price.
- (5) The proceeds of the combine and the truck when sold at a public auction, and the painting purchased by Creditor, totaled \$75,000, which Creditor credited to Farmer's account. Creditor then sent Farmer a deficiency notice for \$25,000 and demanded immediate payment.

Explain fully whether *each* of the above-enumerated actions by Creditor was lawful under the U.C.C. and, as to any of the actions that were not lawful under the U.C.C., what are Farmer's remedies? Do not discuss perfection of security interests.

Question Number 6

George and Betty, lifelong Ohio residents, married in 1955. George and Betty had two children, Tim and Jack.

When Tim graduated from college in 1981, George gave Tim a \$10,000 check and the following letter, which was signed by George:

To my son Tim,
I am very proud of you and I am giving you \$10,000, which will be considered part of your inheritance from my estate upon my death.
/s/ George

Two years later, when Jack graduated from college, George gave Jack \$10,000. Although George did not deliver any writing with the gift to Jack, he told Jack orally at the time of delivery that he (George) intended the gift to be considered part of Jack's inheritance.

Jack used the \$10,000 to help pay for medical school tuition. In 1987, when Jack graduated from medical school, he wrote and signed the following letter to his father, George.

Dear Dad,
I wanted to thank you and acknowledge my appreciation for the \$10,000 that you gave to me to help me with my medical school tuition. I understand you made a similar gift to Tim and I wanted to acknowledge that I understand this would be part of the inheritance that I may ultimately receive from your estate.
/s/ Jack

Betty died in 2000. George married Ann in 2003. Ann had a daughter from a previous marriage, Wendy. George was extremely close to Wendy and on many occasions George told both Wendy and Ann that he felt Wendy was just like a natural daughter to him. However, George never formally adopted Wendy.

In 2006, Tim died, survived by his wife, Martha, and his son, Billy.

In 2008, George and Ann were involved in a car accident. George died at the scene as a result of the injuries he sustained. Ann was critically injured and died two days later at the hospital.

George died without ever having prepared a will. His estate is valued at \$200,000. He is survived by Jack, Billy, Martha, and Wendy. Wendy is the executrix and sole beneficiary of Ann's estate.

During probate proceedings, George's 1981 letter to Tim and Jack's 1987 letter to George were presented to the court. Jack, Billy, Martha, and Wendy each assert a claim to a share of George's estate.

To whom and in what amounts should the estate be distributed? Explain your answers fully.

Question Number 7

Teenager recently began making deliveries every Monday through Saturday from 4:00 to 8:00 p.m. for Florist, the owner of a successful floral shop in Anytown, Ohio. He would report to the floral shop each day, pick up the floral arrangements and delivery list furnished by Florist, and make the deliveries. Teenager used his own vehicle to make deliveries, but Florist required him to display a vinyl "Florist Shop" logo on his vehicle while making all deliveries.

Florist trained Teenager about the importance of good customer relations and that he should greet customers with a smile and thank them for their business. Florist also trained Teenager how to carefully pack the floral arrangements into his vehicle so they would not be damaged during delivery. Although Florist paid Teenager by the hour, Teenager also received tips from the customers. He quickly learned that the more deliveries he made, the more tips he earned. To increase the efficiency of his delivery runs, Teenager invested in a portable global positioning system (GPS) receiver so he could calculate faster delivery routes. Florist was so pleased with the increased number of Teenager's deliveries that Florist gave Teenager a 50-cent raise on his hourly pay rate.

One recent snowy December afternoon, Teenager reported to Florist's shop at 4:00 and carefully packed the floral arrangements into the trunk of his car. He programmed the location of each delivery into his GPS and left to make the deliveries.

After making some of his deliveries, Teenager was feeling very hungry and remembered that he had not eaten lunch. He stopped at Burger Place right on the route to his next delivery. After waiting in the drive-through line for nearly fifteen minutes, Teenager got his order and decided to eat as he drove. He tried to make up lost delivery time by driving faster. Just after he sped out of the Burger Place parking lot, however, Teenager encountered an icy spot on the road and lost control of his car. Teenager's vehicle went left of the center line and collided with an oncoming vehicle driven by Victim. Although Teenager and Victim were both uninjured, the collision disabled both vehicles. Teenager put flares on the road because the two vehicles partially obstructed the lane of travel, although it was still possible for vehicles to maneuver past carefully. Teenager and Victim decided to wait in their vehicles until emergency help arrived.

As they waited for help to arrive, a vehicle driven by Driver approached. Driver noticed Burger Place on the other side of the street and she started looking around for cash in her car to buy dinner. When Driver looked up and saw the accident scene, she slammed on her brakes, which caused her to slide on the ice and collide with Victim's vehicle. Victim sustained personal injuries in the collision with Driver and has sued Florist in an Ohio court to recover for her damages.

Florist asserts the following affirmative defenses in the lawsuit: (i) that Teenager is an independent contractor; (ii) that even if Teenager is his employee, at the time of the accident Teenager was not acting within the course and scope of his duties; and (iii) Driver's negligence was a superseding intervening cause of Victim's injuries.

How would the court be likely to rule on each of Florist's affirmative defenses? Explain your answers fully.

Question Number 8

Company and Rival are competing Ohio manufacturers of plastic drain pipe. Fred was Company's chief chemist. One day, Rival invited Fred to a luncheon meeting where Rival persuaded Fred to divulge the trade secret formula for Company's best selling pipe. Rival then used the formula to make a similar pipe.

Jeff is Company's salesperson. During a sales call at Customer's shop, Customer told Jeff the following: "Rival's salesperson told me that Fred gave Rival the secret formula Company uses to produce its best selling pipe." Jeff reported this information to Company's CEO, who immediately confronted Fred. Fred admitted to the CEO that he had given the secret formula to Rival. Company promptly discharged Fred. Fred sued Customer in Ohio State Court for defamation. At the Fred vs. Customer trial, Fred testified that he had indeed given Company's formula to Rival.

In a separate lawsuit, Company sued Rival in Ohio State Court for misappropriation of its trade secrets, which Rival denied. All of the following events happened at the Company vs. Rival trial.

- (1) Company called Jeff to the stand and asked him about his conversation with Customer. Rival's counsel objected and the trial court sustained the objection on hearsay grounds.
- (2) Company called Fred to the stand and asked him if he had disclosed Company's secret pipe formula to Rival. Fred denied having done so. When Company's counsel called Company's CEO to the stand and asked her if Fred had admitted giving the formula to Rival, Rival's counsel objected. The court sustained the objection on hearsay grounds.
- (3) When Company's counsel then attempted to introduce a transcript of Fred's testimony from the Fred vs. Customer trial, Rival's counsel again objected. The Court again sustained the objection on hearsay grounds.
- (4) Rival's evidence during its case in chief tended to cast aspersions on Company for supposedly discharging Fred unfairly. To persuade the jury that its discharge of Fred was not unfair, Company's lawyer called its CEO to the stand and asked about Fred's admission to her. Rival's counsel objected to Fred's admission on hearsay grounds, but the Court overruled the objection.

Did the court make the proper ruling on each objection? Explain your answers fully.

Question Number 9

Michael, a shareholder of Company (“Company”), has a written agreement with Agent whereunder Agent is authorized to purchase from other shareholders all of their stock of Company for a purchase price of not more than \$1,000 per share. Agent is to receive compensation from Michael of 10% of the purchase price when all of the shares are transferred to Michael.

Agent entered into the following agreements with the other shareholders of Company:

Mary’s purchase price under her agreement is \$1,000 per share. Mary’s agreement with Agent did not disclose that Agent was acting on behalf of anyone.

Beth’s purchase price under her agreement is \$1,000 per share. Beth’s agreement with Agent disclosed that Agent was acting as an agent but did not disclose the principal. However, Beth was aware that Michael had engaged Agent for that purpose.

George’s agreement was for \$1,000 per share with Agent, who disclosed that Agent was acting for an investment bank, but the investment bank, unknown to George, did not exist. George had planned to leave Company to set up a new business, and Agent was aware of George’s plan. Agent orally promised George to pay him \$5,000 if he did not disclose to the other shareholders the involvement of the investment bank and also agreed to provide working capital for any new business George establishes for the next five years. George did not disclose any information regarding his sale of shares.

Joseph’s agreement with Agent, which was the last agreement signed, disclosed Agent was acting as an agent but did not name Michael. Joseph’s purchase price was \$800 per share, and the agreement falsely represented to Joseph that all shares being purchased from the other shareholders were at \$800 per share. Joseph was aware of Agent’s misrepresentation, but he did not know the identity of Agent’s principal.

Some of the shareholders have refused to complete the sales.

- (1) Does Michael have the right to require each of the shareholders to complete the sale of their shares to him?
- (2) Which, if any, of the selling shareholders have the right to require Michael to purchase their shares if Michael declines?
- (3) May any of the shareholders require Agent to purchase the shares if Michael refuses?
- (4) May George require Agent or Michael to pay him the sum of \$5,000 and to honor the five-year commitment to fund his new business?
- (5) May Joseph refuse to sell the shares to Michael or require him to purchase the shares for \$1,000 rather than the \$800?
- (6) May Agent collect his commission from Michael on a pro-rata basis?
- (7) May Agent collect his commission from the selling shareholders who have refused to sell the shares?

Explain your answers fully. Do not discuss specific performance or damages.

Question Number 10

Carla and Dan left the Littletown, Ohio, high school prom in Dan's car. Dan was driving, and Carla was in the front passenger seat. Trooper and his partner, Melba, both state police officers, were patrolling the area a few miles away from the hall where the prom was held. They received a radio report of a hit and run accident from which the fleeing motorist had escaped by driving across a muddy field.

When Trooper saw Dan's car, he noticed that the rear license plate was obscured by what looked like a splattering of mud. The state vehicle code makes it unlawful to operate a motor vehicle unless the license plates are clearly legible. Based on that violation, and also because of the radio report, Trooper pulled Dan over. As Trooper approached the driver-side window, Dan rolled down the window. Trooper thought he detected the faint odor of marijuana, which he recognized from his training and experience. He ordered Dan and Carla out of the car and asked for their IDs. Neither of them seemed to be impaired or in any way acting strangely, and both denied that they had used marijuana.

At about that time, Trooper heard a message that came in over the radio in the patrol car reporting that they had caught the motorist who had fled from the hit and run accident and were calling off the search.

Nevertheless, Trooper patted Dan's outer clothing and Melba patted Carla down. Neither officer felt anything that indicated the presence of a weapon. During the pat-down, Trooper detected Dan's cell phone. Trooper took the cell phone out of Dan's pocket, opened the phone and, over Dan's objection, scrolled through the menu. Trooper noticed a text message from "Jim" that had been posted a few minutes earlier. The message stated, "We're waiting for you and Carla at Rory's house on Camden Street to bring the beer that we put in the cooler in your trunk."

Trooper told Dan, "It will go easier for you if you let me search the trunk of your car." Dan, intimidated by Trooper's remark, agreed to let Trooper search the trunk. In the trunk, Trooper found an ice-packed cooler containing about two cases of beer. Also in the trunk was Carla's purse and, over Carla's strenuous objection, Melba looked through the contents. In the purse, Melba found a plastic baggie with a quantity of marijuana. The officers seized Dan's cell phone, the full cooler, and the marijuana and arrested Dan and Carla. As the legal drinking age in the jurisdiction is 21, Dan was charged with illegal possession of alcoholic beverages. Carla was charged with possession of marijuana.

Dan's attorney moved to suppress the cell phone taken during the pat-down and the cooler full of beer taken from his trunk. Carla's attorney moved to suppress the marijuana taken from her purse. The motions were based on the ground that each of the police actions described above violated their clients' rights under the 4th Amendment of the U.S. Constitution.

How should the court rule on each motion? Explain your answers fully.

Question Number 11

Thomas, a 20-year-old, lived in New York and voted in the spring primary in that state. Thomas planned to move to Ohio in the summer, as it was his intent to attend State University (SU) in Anytown, Ohio, in the fall. Thomas moved to Ohio in June, rented an apartment, registered his car, and obtained an Ohio driver's license.

Because Thomas was paying his own tuition, he needed to work and go to school part-time. He obtained a position as a clerical worker with Anytown's municipal water system. An Anytown municipal ordinance specified that, "All new employee hires are considered probationary for a period of six months. After six months, the employee will be evaluated and may be offered a permanent position."

When Thomas went to register for classes at SU, he was informed he would have to pay the higher tuition rates charged to out-of-state students. The SU Code of Regulations specified that, "For purposes of determining out-of-state residency, an individual who has resided in and voted in an election in another state in a calendar year is determined to be a resident of that state for that calendar year." Thomas asked whether there was any procedure by which he could present facts to show that he was an Ohio resident since he had moved to Ohio and planned to stay there. Thomas was told that the Regulations were final and binding.

After five months with the Anytown municipal water system, Thomas was informed that his employment was being terminated. He asked for an explanation. His supervisor told him, "We don't really need to tell you anything, but since you asked, you are being let go because in five months on the job you have arrived late for work four times."

Despondent on the night of his firing, Thomas wandered the SU campus. He ran into some casual acquaintances on the campus square and began talking to them. Around midnight, a member of the SU police force approached the group, told them to disband, and gave each a ticket for \$25. This was pursuant to a section in the SU Code of Regulations that said: "If a University Police Officer, after 11 p.m. in the evening, observes a group of more than three individuals on the campus outside of any university building and the group is not apparently involved in an academic pursuit, the officer shall tell the group to disband and may issue a ticket for \$25 to the individuals in the group." The code section had been adopted several years earlier after groups of fraternity members had congregated on the square late at night to party and harass passers-by.

Thomas has now brought a lawsuit claiming that the following state actions violate his rights under the Due Process Clause of the 14th Amendment to the U.S. Constitution: (1) SU's Regulation by which out-of-state residency is determined; (2) his summary termination by the municipal water company; and (3) the SU Regulation empowering the police to eject him from the campus square and cite him for being there after 11 p.m.

You may assume that all defendants are properly named and joined and that state action is present in all three situations.

Explain fully whether each of the claims presented by Thomas falls within the Due Process Clause of the 14th Amendment and how the Court would likely rule on each.

Question Number 12

Lawyer in Anytown, Ohio is a general practitioner with a number of clients and a wide variety of legal matters he handles for them. The following is a summary of Lawyer's morning activities.

Insurance Adjuster called Lawyer and offered a settlement figure for the pending personal injury claim of Lawyer's client, Ann. Considering the offer in light of his initial discussion with Ann about the case several months ago, Lawyer rejected the offer, advising Insurance Adjuster that the offer was too low.

Lawyer received a call from Ben, a local man who has been criminally charged with the theft of a \$3,000 ring. After discussing the facts, Lawyer was fairly certain he could get the charges dismissed on a technicality prior to trial. Lawyer orally agreed to represent Ben, and Ben agreed that if Lawyer was successful, Ben would pay Lawyer 33% of the value of the allegedly stolen ring (i.e. \$1,000).

Lawyer then got a visit from Charles, a local businessman who wanted Lawyer to represent Charles in a contract dispute. Lawyer requested and received from Charles a retainer of \$1,000 to cover court costs and other expenses associated with initiating a lawsuit. Lawyer deposited the \$1,000 in Lawyer's general operating account so that funds could be withdrawn as needed for Charles' case.

Lawyer returned a call from a new client, Donna, whom he had agreed to represent in a divorce action against her estranged Husband. Donna claimed that she knew of some shady business deals that Husband was involved in and insisted that Lawyer tell Husband's attorney that she would go to the police with that information unless Husband agreed to pay alimony. Donna also demanded that Lawyer file a stalking charge against Husband, even though Donna has no basis to support such a claim. Lawyer advised Donna that, in light of this conversation with her, he intends to terminate his attorney-client relationship with her.

Finally, concerned about his client, Ed's, increasing mental decline which has caused him to recently make several poor business decisions, Lawyer prepared and filed papers with the Probate Court seeking the appointment of a guardian to handle Ed's financial affairs.

With respect to the above-described actions taken by Lawyer, was each action consistent with the ethical obligations imposed on him by the Ohio Rules of Professional Conduct? Explain fully.