

Question Number 1

Defendant and his friends went to a local bar in Town, Ohio, to watch a heavyweight title fight. The crowd at the bar was very loud and rowdy, in part because they were drinking, and because everyone was anxious about the fight. While excitedly cheering for the contender, Defendant accidentally bumped into one of the champion's fans, Fan, and knocked him down. Fan got up and punched Defendant in the face, breaking Defendant's nose.

Defendant and his friends immediately left the bar and went to Bully's house. Defendant and his friends told Bully what happened at the bar, and Bully became angry about it. Bully decided to go down to the bar alone and "get" Fan for what Fan did to Defendant. Bully thought that without Defendant accompanying him, Fan wouldn't suspect a reprisal.

Bully told Defendant and his friends he would sneak up on Fan and stab him in the back, just to hurt him; all he needed Defendant to do was give him a knife and a description of Fan. Everyone agreed to what Bully proposed, so Defendant handed Bully a knife and joined his friends in giving Bully a description of Fan. Defendant and his friends stayed at the house when Bully left to go find Fan.

Bully went into the bar just as the heavyweight fight was ending. He walked up behind Victim, a man who Bully mistakenly believed was Fan. Bully stabbed Victim in the back with the knife Defendant had given him and fled the bar. Shortly thereafter, Victim died as a proximate cause of the knife wound. Bully immediately left town and has not been seen since.

Defendant was arrested and charged with complicity in the premeditated murder of Victim. Defendant's friends were also arrested and charged with conspiracy to commit the premeditated murder of Victim.

1. Should Defendant be convicted of complicity in the premeditated murder of Victim?

2. Should Defendant's friends be convicted of conspiracy to commit the premeditated murder of Victim?

Explain your answers fully.

Question Number 2

John owns an automobile that he is interested in selling. The following sequence of events concerning the automobile occurred in May 2007:

May 1: John mailed Arnold a written offer letter stating that he would sell Arnold the automobile for \$25,000, provided that Arnold signed and returned by mail a copy of the offer letter by May 15.

May 2: Arnold received John's offer letter and immediately signed a copy and deposited it in the mail at the post office.

May 2: Kevin called John by telephone to inquire about the automobile. John told him that he had offered to sell it to Arnold. Kevin said, "If Arnold does not buy the automobile, I will buy it for \$35,000." John responded, "You have a deal."

May 3: John sent a letter to Arnold stating that he was "hereby revoking" his offer to sell the automobile to Arnold.

May 4: John received the copy of the offer letter that Arnold had signed and mailed.

May 5: Kevin called John by telephone and told him that he, Kevin, had changed his mind and would not buy the automobile.

May 6: John placed an ad in the newspaper stating he would sell the automobile for \$28,000 to the "first taker." On the same day, Mary hand delivered to John a letter stating that she would buy the automobile for \$28,000.

May 7: Cathy, who had heard that Mary had already responded to John's ad, called John by telephone and offered to pay \$36,000 for the automobile. An hour later, Cathy died in a tragic accident.

May 8: After reading about Cathy's death in the newspaper, John sent Cathy a letter accepting her offer. The letter was forwarded to the executor of Cathy's estate, who refused to buy the automobile.

May 20: John put the automobile up for sale at an auction. He did not specify a minimum bid. At the auction, Harry was the highest bidder at \$30,000, but, before the auctioneer could say "sold," John interrupted and said, "I will not sell the automobile for such a low price."

In separate lawsuits between the following parties for breach of contract, who will most likely prevail on the merits:

1. Arnold v. John?
2. John v. Kevin?
3. Mary v. John?
4. John v. The Estate of Cathy?
5. Harry v. John?

Explain your answers fully. Do not discuss any issue of damages.

Question Number 3

On December 1, 1980, John purchased from Art a two-story building and a bicycle shop business in Town, Ohio. The bicycle shop was on the first floor, and the second story was an apartment where John resided. John paid cash for the building and gave Art a promissory note in payment for the bicycle shop. The promissory note was secured by a security agreement and financing statement that granted Art a security interest in the bicycle shop's "trade name, all trade fixtures, telephone systems, computers, present and future inventory and accounts receivable." Art immediately and properly filed the financing statement. John sold the building in 1985, but he continued to reside in the apartment and operate the bicycle shop. Also in 1985, John defaulted on the payments due on the note to Art, who has never attempted to collect on the note or take any action on the collateral.

On February 1, 2005, John borrowed \$25,000 from First Bank. He executed a promissory note, security agreement, and financing statement granting First Bank a security interest in "all of the assets owned by John." First Bank immediately and properly filed the financing statement.

On July 1, 2006, John entered into the following transactions with the following creditors:

- Manufacturer: John purchased a new line of bicycles and parts from Manufacturer for \$50,000 on credit. John signed a security agreement and financing statement granting Manufacturer a security interest in "all John's present and future inventory, parts, all accounts receivable, all fixtures, computers, and telephone systems." Manufacturer delivered the bicycles and parts on July 5, 2006, and filed the financing statement on July 15, 2006.
- Second Bank: John borrowed \$200,000 from Second Bank and executed a promissory note and security agreement and financing statement granting Second Bank a security interest in "John's business assets, including all fixtures, existing and future inventory, accounts receivable, telephone systems, and computers." Second Bank filed its financing statement on July 5, 2006.
- Wanda: John purchased two very expensive bicycles for resale from a sporting equipment wholesaler and borrowed one-half of the purchase price from Wanda. He gave Wanda a promissory note and signed a security agreement granting her a security interest in one of the expensive bicycles. John kept one of the bicycles in inventory and delivered the other one to Wanda, who has retained it in her possession.
- TV Store: John purchased from TV Store a home theater for use in his apartment and a new computer for use in his business. He agreed to pay TV Store in 24 equal monthly installments, and he signed a security agreement

describing the “home theater and computer” as the collateral. The home theater was installed in his apartment and the computer was delivered to the bicycle shop on July 1, 2006.

John has now defaulted on all the foregoing obligations, and each of the creditors – Art, First Bank, Manufacturer, Second Bank, Wanda, and TV Store – now seeks to foreclose on their security agreements.

What rights does each creditor have in the collateral described in the respective security agreements? Explain fully.

Question Number 4

Lisa, a lawyer, and Paul, a printer, have the following mutually beneficial business arrangement in Town, Ohio: Lisa created a series of “Everyone’s Standard Legal Forms” for use in Ohio courts by individuals and small businesses who choose to litigate without legal counsel. Paul prints and markets the forms primarily over the Internet. Signs for Lisa’s law practice and Paul’s company are separately and prominently displayed on the front door of their shared suite of offices. They equally split the cost of the rent and utilities, including telephone and high-speed Internet service. Paul and Lisa maintain separate business banking accounts.

Both the forms and Paul’s website inform the reader that the forms are authored by “Lisa, a licensed Ohio lawyer” and include a helpline phone number for assistance in selection and completion of the forms. The helpline is answered by Donald, an experienced paralegal who reports to and is supervised by both Lisa and Paul. Donald’s work place is located in the suite of offices shared by Lisa’s law practice and Paul’s company headquarters.

Donald helps the consumers desiring to use Paul and Lisa’s forms in *pro se* litigation to fill out the forms. He also screens callers to identify prospective legal clients for Lisa by informing the callers that Lisa just happens to be available for consultation and, with the caller’s permission, transfers the calls to Lisa.

Lisa charges hourly rates that are reasonable for a lawyer of her skill and experience. She utilizes “Everyone’s Standard Legal Forms” in her practice and, in addition to her hourly rate, charges her clients full retail price for the forms, although Paul provides them to her without charge.

Paul carries both Donald and Lisa on his company’s group health insurance plan. To be eligible for coverage, Lisa filled out a new employee insurance application that stated that her full-time employment was as an employee of Paul’s company.

To fairly compensate Paul’s company for her health insurance, and to pay her one-half of the cost for Donald’s health insurance, Lisa pays Paul \$100 from the initial retainer she receives from each client introduced to her by Donald from the helpline.

What ethical violations, if any, result under the Ohio Rules of Professional Conduct from Lisa’s business arrangement with Paul? Explain fully.

Question Number 5

The State Legislature wished to protect the physical and psychological well-being of minors and to prevent violent and antisocial behavior by minors. After limited debate, the Legislature decided that the message being communicated by video games was one of violence and aggressive conduct.

The Legislature passed a State law that regulates the sale and distribution of ultra violent, explicit video games to minors under the age of 17. The law imposes civil and criminal penalties on a person for “knowingly selling or disseminating to a minor an ultra violent, explicit video game.” The statute defines an “ultra violent, explicit video game” as one that “continually and repetitively depicts physical violence against parties who realistically appear to be human beings including actions causing death, inflicting cruelty, dismemberment, decapitation, maiming, disfigurement or other mutilation of body parts.”

A group of creators, publishers, and distributors (“Creators”) as well as an association of users and consumers of video games whose members are all middle school and high school students (“Association”) sued to challenge the State law as violating the First Amendment of the U.S. Constitution.

How should the court rule on each group’s challenge to the State law? Explain fully.

Question Number 6

Roofer was a resident of Covington, Kentucky, where he ran a commercial and residential roofing business. Following a serious hailstorm that struck Cincinnati, Ohio (directly across the Ohio River from Covington), he sensed a major business opportunity and decided to incorporate a roofing company in Ohio. He found three Cincinnati business people – Ann, Bill, and Cassie – willing to invest \$100,000 each to capitalize the corporation.

Roofer then filed Articles of Incorporation with the Ohio Secretary of State. The Articles identified his business as “The Roofing Giant” with its principal office located at 100 Elm Street, Covington, Kentucky. The Articles listed the initial directors of the company as Roofer, Ann, Bill, and Cassie. The Articles specified that, “The principal purpose of the business will be to install and replace roofs.” The Articles contained no reference to shares of stock.

Roofer filed with the Articles a written appointment of himself as statutory agent, at the Covington address, that was signed by all of the directors. Roofer was named President of the company at the first meeting of the Board of Directors and, under the Code of Regulations approved unanimously by the directors, was given broad authority to conduct the day-to-day business of the corporation.

The roofing business prospered and The Roofing Giant accumulated a large capital surplus. At a meeting of the Board of Directors, Roofer proposed investing part of the surplus in a real estate venture. The investment was approved by all of the directors except Cassie, who was absent from the meeting. Shortly after making the investment, the real estate market crashed and the company lost a significant portion of its investment.

A few months later, a warehouse that The Roofing Giant had leased to store roofing materials burned to the ground. Roofer had neglected to procure fire insurance on the building, as required by the lease. The lessor sued both the corporation and Roofer personally. The Board of Directors met and voted to provide Roofer with indemnity against any adverse judgment in the lawsuit. Roofer, Ann, and Bill voted yes, and Cassie voted no.

Cassie has brought a lawsuit against The Roofing Giant seeking to recover all or part of her initial investment. The lawsuit is proper in all procedural respects. In the lawsuit, Cassie makes three claims: (1) that The Roofing Giant’s Articles of Incorporation are deficient under Ohio law; (2) that the investment in the real estate venture was unauthorized because it was contrary to the corporation’s purpose clause; and (3) that the vote to indemnify Roofer was invalid.

Is Cassie likely to prevail on each of her three claims? Explain your answers fully. Do not discuss any dollar amounts that Cassie might recover.

Question Number 7

Bob and Joe, two college students on summer break, moved into a house on a quiet street in Oakwood Township, Ohio. They built a big fire pit in the back yard and began inviting their friends over for nightly parties, which involved loud music and bonfires in the fire pit, lasting until well past midnight each night for several weeks.

The only close neighbor was Neighbor, whose property abutted the house occupied by Bob and Joe. Each night, the smoke from the fire seeped into Neighbor's house, irritating his asthma, and the noise made it impossible for Neighbor to sleep while the party was going on. Even closing the windows did not help much. The noise level was so loud at times that it would rattle Neighbor's windows. Repeated requests by Neighbor to "keep it down" went unheeded.

To entertain the guests during one of the parties, Bob lit the ends of a number of long sticks in the fire pit and threw them like javelins into Neighbor's back yard. When the flames in the fire pit started to die down, Bob added some logs and squirted lighter fluid onto the fire. When the lighter fluid bottle was almost empty, he replaced the cap on the bottle and threw it on the fire. The bottle exploded and propelled a piece of the bottle into Neighbor's yard, breaking the window in his attic.

Joe got up early the next morning and, before Neighbor awoke, Joe went into Neighbor's yard to clean it up. He picked up all the burned sticks and scrubbed the smoky film off the side of Neighbor's house. Later that day, Neighbor told Bob and Joe about the broken window and asked them to pay to have it fixed. They refused.

Neighbor wants to file a civil tort action against Bob and Joe.

What claims, *other than negligence*, does Neighbor have against each of them? Explain fully.

Question Number 8

Frieda lives in First County, Ohio. She is the sole shareholder and chief executive officer of Hotel, Inc. (“Hotel”), which owns a hotel in Second County, Ohio. Frieda runs Hotel out of her home in First County and rarely visits the hotel in Second County. Frieda entered into the following contracts for the landscaping of the hotel:

In her capacity as an individual, she contracted with LandScapes, Inc. (“LSI”) for the design of the garden. The contract provided that Frieda would pay, at LSI’s headquarters in Second County, \$15,000 upon LSI’s delivery of the design plans. LSI delivered the plans, but Frieda failed to pay.

In her capacity as chief executive officer of Hotel, Frieda contracted with Outside Gardeners, Inc. (“OGI”) to install the garden for \$15,000 in accordance with LSI’s design plans. OGI is located in Third County. Under the contract, payment was to be made to OGI in Second County upon completion. OGI completed the installation, but Hotel failed to pay.

LSI filed suit in Second County Municipal Court against Frieda for breach of contract to recover \$15,000 plus interest. The Clerk of the Municipal Court (“Clerk”) sent the summons and complaint by certified mail, return receipt requested, addressed to Frieda at the hotel in Second County. Four months later, the unopened envelope was returned by the Post Office marked “Unclaimed.” The Clerk notified LSI of this fact, whereupon LSI filed a motion in the Municipal Court for a default judgment in the amount of \$15,000 plus interest.

OGI filed suit in the Third County Court of Common Pleas against Hotel for breach of contract to recover \$15,000 plus interest. That same day, the Sheriff “served” the summons and complaint by tacking a copy of each to the front door of the hotel. One month later, when Hotel had failed to answer or otherwise plead to the complaint, OGI filed a motion in the Third County Court of Common Pleas for a default judgment in the amount of \$15,000 plus interest.

1. Did LSI file its suit against Frieda for breach of contract in a proper venue?
2. Did OGI file its suit against Hotel for breach of contract in a proper venue?
3. Does the Second County Municipal Court have both personal jurisdiction and subject-matter jurisdiction over Frieda to grant LSI’s motion for default judgment?
4. Does the Third County Court of Common Pleas have both personal and subject-matter jurisdiction over Hotel to grant OGI’s motion for default judgment?

Explain your answers fully.

Question Number 9

Cars driven by Mary and John collided at an intersection with stop signs at each corner in Brookside, Ohio. At the time of the accident, Mary's brother, Vic, was a passenger in her car. Walt, who worked for John's automobile insurance provider, was a passenger in John's car.

Mary sued John for injuries she suffered and damage to her car. The principal issue in the case was which of them caused the accident by failing to stop at the stop sign. Mary and John each asserted that the other had failed to stop at the stop sign.

The following events occurred at the jury trial:

1. Cross-examination of John: John testified that he was not intoxicated at the time of the accident. On cross examination, Mary's lawyer asked John:

(i) "Isn't it true that you have previously been convicted several times of drunk driving?" and

(ii) "Isn't it true that about 24 hours before the accident you drank six ounces of whiskey within a 45-minute period at a local bar?"

John's truthful answers would have been "yes" to both questions. He had four prior convictions for drunk driving, the last of which was a felony, and he had been drinking the night before the accident. John's lawyer objected to each question on the ground of relevance.

2. Cross-examination of Walt: John's insurance provider was paying for John's defense and would be required to pay the damages if John were found liable. John's lawyer called Walt to the stand to testify about the accident. On cross-examination, intending to bring out the fact that Walt worked for John's insurance company, Mary's lawyer first asked Walt, "Who is your employer?" John's lawyer objected to the question on the ground of relevance.

3. Cross-examination of Mary: John's lawyer was prepared to prove that six months before the accident in question Mary had been cited, convicted, and fined for having failed to stop at the stop sign at the same intersection where the accident occurred. On cross-examination, John's lawyer asked Mary, "Have you been convicted of any traffic violations?" Mary's lawyer objected on the ground of relevance.

4. Cross-examination of Vic: On cross-examination, John's lawyer asked Vic:

(i) "Isn't it true that your sister Mary never stops at stop signs when she is driving?" and

(ii) “Isn’t it true that, just a few minutes before the accident occurred, your sister Mary had failed to stop at a stop sign a block away during a very heated argument you and she were having in her car?”

Vic’s truthful answers would have been “yes” to both questions, but Mary’s lawyer objected to each question on the ground of relevance.

How should the court rule on the objections to:

1. Each of the two questions asked of John on cross-examination?
2. The question asked of Walt on cross-examination?
3. The question asked of Mary on cross-examination?
4. Each of the two questions asked of Vic on cross-examination?

Explain your answers fully.

Question Number 10

Mary, a resident of Columbus, Ohio, entered into several transactions in 2007. The instruments involved in each of the transactions were properly executed, fully negotiable, and properly indorsed.

1. Mary's \$10,000 promissory note negotiated to Nephew: In payment for work done by Acme Paving Company ("Acme") in paving Mary's driveway, Mary gave to Acme a promissory demand note in the amount of \$10,000. Acme completed the job as agreed, but soon afterwards Mary noticed large cracks in the surface of the driveway. She complained to Acme, but Acme refused to fix the cracks. Acme subsequently negotiated Mary's note to Jones to pay for some equipment Acme had purchased from Jones in an unrelated transaction. Jones did not know about Mary's complaint.

Jones then negotiated Mary's note to Nephew as a wedding gift. When Nephew went to Mary to collect the \$10,000, Mary refused to pay on the ground that Acme's work had been faulty.

2. Mary's \$15,000 promissory note negotiated to Bill: Mary purchased what she believed to be a diamond ring from Sue and gave to Sue a promissory demand note in the amount of \$15,000. Sue negotiated Mary's note to Bill, an interior decorator, with whom she intended to contract in the future for some possible improvements to her home. At Sue's request, and in exchange for the note, Bill posted \$15,000 on his books as a credit against which Sue could draw if and when she decided to go forward with the work. Shortly thereafter, Mary learned that the "diamond" she had purchased from Sue was a fake, worth only \$100. When Bill demanded payment on the note, Mary refused, claiming that Sue had defrauded her.

3. The \$20,000 cashier's check from Bank: On July 14, 2007, Bank gave Mary a loan and presented her with a cashier's check in the amount of \$20,000 representing the proceeds of the loan. On November 1, 2007, Mary indorsed the cashier's check over to Dealer in payment for a used car that she bought from Dealer. Before Dealer could present the check, however, Bank learned that Mary had actually defrauded Bank by giving a false financial statement to Bank in order to obtain the loan. On November 3, 2007, when Dealer presented the check, Bank refused to honor it.

4. Company's \$1,000 note to Mary: Mary received a promissory demand note in the amount of \$1,000 from Company for work that Mary had done for Company. Mary pledged this note to George as security (collateral) for a debt of \$600 that Mary owed George. The terms of the pledge were that, if Mary defaulted on her debt to George, he could have recourse to the note. When Mary subsequently defaulted on her debt to George, George presented the \$1,000 note to Company for payment. Company refused to pay and told George that it had learned before George presented the note for payment that Mary's work had been inferior.

1. Is Mary liable to Nephew for the \$10,000 note assigned to him by Jones?
2. Is Mary liable to Bill for the \$15,000 note assigned to him by Sue?
3. Is Bank obligated to Dealer to pay its \$20,000 cashier's check?
4. Is Company liable to George for all or any part of its \$1,000 note and, if so, for how much?

Explain your answers fully.

Question Number 11

Ted, a tenant, and Lana, the landlord, entered into a one-year written, signed lease under which Ted agreed to pay rent of \$1,500 on the first of each month for a house owned by Lana in Anytown, Ohio. The lease price included water, gas, and electric charges. On February 1, Ted moved in and paid the first month's rent and a security deposit of \$1,500. Ted paid his rent timely, up to and including the June 1 payment.

On June 1, Ted noticed a water spot on the ceiling above the upstairs bathroom. He notified Lana in writing about the spot and requested that she inspect for the problem and repair it. Lana did not respond.

Between June 5 and June 30, the following events occurred: The water spot developed into a leak, such that part of the ceiling collapsed, wetting and soiling the carpet below. Ted had to turn the water main off, with the result that he was without water. On three occasions Ted delivered written notices to Lana, requesting her to make repairs to the pipe and repair the ceiling, and to replace the carpet. After Lana failed to respond, Ted lodged a complaint with the local code enforcement office. An enforcement inspector determined that a water pipe in the bathroom had burst, creating a health hazard. The enforcement inspector issued a citation ordering Lana to make the repairs immediately.

On July 2, without giving notice to Ted, Lana entered the apartment and, instead of repairing the broken pipe, she shut off Ted's electricity and gas service. She left Ted a written note stating, "You just *had* to go and report me, didn't you? I'm hereby ordering you to vacate my house immediately or I'll start eviction proceedings against you."

Ted declined to move out and continued to use the house for sleeping. He stopped paying rent to Lana. Instead, he timely deposited each subsequent rent payment with the Clerk of the local Municipal Court. From June through the end of the lease, Ted incurred \$2,000 in expenses for such things as laundry, membership in a nearby athletic club he joined so he would have access to shower and bathroom facilities, and taking his meals at restaurants.

Finally, at the end of the lease, Ted moved out and left a forwarding address with Lana, instructing her in writing to send his security deposit to that address. Ted left the house in clean condition, except that he left some old furniture and equipment he did not want in the basement. It cost Lana \$500 to haul and dump those items.

Fifteen days later, Lana sent Ted a letter declining to return his security deposit and itemizing the deductions from it as follows: "\$500 to haul and dump items left in basement; \$1,000 applied to unpaid rent."

1. What duties, if any, did Lana owe Ted before entering into the house on July 2?

2. What duties, if any, did Lana owe Ted to make the requested repairs?
3. What remedy, if any, does Ted have as a result of Lana's threat to commence eviction proceedings against him?
4. What remedy, if any, does Ted have regarding the recovery of his security deposit?
5. As between Ted and Lana, who has the right to the rent payments Ted deposited with the Clerk of the Municipal Court?

Explain your answers fully.

Question Number 12

In 2005, Father, an Ohio widower, drew up a valid will that contained the following clauses to dispose of his property:

- “I. To the charity, Helping All Peoples of the World, I leave the sum of \$100,000.
- “II. To The Association of Old Retired Guys Who Collect Stamps, I leave my collection of antique and rare stamps.
- “III. To my sons, Al, Bob and Clark, I leave the rest, residue and remainder of my estate to be divided between them in equal shares.”

In 2006, Helping All Peoples of the World became defunct due to mismanagement of funds. The founder of that organization formed a new charitable organization known as Help the Dogs and Cats.

Also in 2006, Al died in a tragic car accident, survived by a son. Father was so devastated by Al’s death that Father sold his stamp collection for \$50,000 in order to pay for an expensive memorial statue in Al’s honor.

Bob was so jealous of Father’s love for Al and the expenditure of funds on Al’s behalf, that Bob killed Father in a fit of rage. Bob was charged with, and pleaded guilty to, the murder of Father.

Clark, who had previously taken a vow of poverty and moved to a foreign country, returned to Ohio for Father’s funeral and executed a timely and effective disclaimer of any interest in Father’s estate.

Father’s net probate estate consists of the sum of \$300,000 in cash. Help the Dogs and Cats requests that it receive the \$100,000 bequest in Paragraph I of the will. The Association of Old Guys Who Collect Stamps requests that it receive the \$50,000 value of the stamp collection.

1. How should the probate court decide the issues regarding the assets that are the subject of Paragraph I of the will?
2. How should the probate court decide the issues regarding the assets that are the subject of Paragraph II of the will?
3. How should the probate court decide the issues regarding the rights of Al, Bob, and Clark in the residue, and to whom will the residual assets be distributed?

Explain your answers fully.

