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PRACTICE QUESTIONS

The State Bar of California (Test Center)

FYLNIX

First-Year Law Students' Test Center Examination

Uploaded by Community B

EDITION

Original Demo

QUESTIONS

8

ISSUED

October 14, 2026

Before you begin

What this is

8 practice questions for The State Bar of California (Test Center) FYLNX , each with its answer key and an explanation. Answer a question before you read its key - the explanation is worth more once you have committed.

If something looks wrong

Send us three things and we will check it:

- the exam code, FYLNX
- the question number
- the email address on your order

Write to **support@mometrix.net**. We reply within one business day.

Licence

Free Mometrix practice demo. The complete question bank is available through a paid account.

QUESTION 1

SINGLE CHOICE

At trial, a witness testifies that she heard an unidentified bystander shout, 'The defendant just robbed the store!' The statement is offered to prove that the defendant robbed the store. The statement is best characterized as:

- ☐ A An excited utterance, and therefore admissible.
- ☐ B A present sense impression, and therefore admissible.
- ☒ C Hearsay, and not within any recognized exception.
- ☐ D A party admission, and therefore admissible.

ANSWER C

WHY The statement is an out-of-court declaration offered to prove the truth of the matter asserted—that the defendant robbed the store—so it is hearsay. Although it might appear to qualify as an excited utterance or present sense impression, the bystander is unidentified and there is no evidence that the bystander personally observed the robbery. Because the proponent cannot establish the necessary foundation, no exception applies.

QUESTION 2

SINGLE CHOICE

O conveys Blackacre 'to A for life, then to A's children who reach 21.' A is alive and has no children. At common law, what is the nature of A's present interest?

- ☐ A A fee simple determinable because A could lose the property upon turning 21.
- ☒ B A life estate because A holds only for the duration of A's life.
- ☐ C A fee simple subject to a condition subsequent because of the future interest in A's children.
- ☐ D A fee simple absolute because A has the present possessory interest without limitation.

ANSWER B

WHY An estate 'for life' is, by definition, a life estate. A holds a present possessory interest measured by A's lifetime. The remainder to A's children who reach 21 is a contingent remainder (vesting depends on both existence and age), but that does not change the character of A's present estate. Options A, C, and D incorrectly describe A's interest as a fee simple in some form, but the grant explicitly limits A to a life estate.

QUESTION 3

SINGLE CHOICE

A defendant, intending to kill A, instead mistakenly kills B, who is standing next to A. Under the doctrine of transferred intent, the defendant is most likely guilty of which of the following with respect to the killing of B?

- ☐ A Involuntary manslaughter, because B was not the intended victim.
- ☒ B Murder, because the intent to kill A transfers to the killing of B.
- ☐ C No homicide offense, because there was no intent to kill B specifically.
- ☐ D Attempted murder of A and manslaughter of B.

ANSWER B

WHY Under the doctrine of transferred intent, when a defendant intends to kill one person but kills another bystander instead, the intent to kill transfers to the actual victim, and the defendant is liable for murder (assuming the other elements, such as malice, are satisfied). Option A is incorrect because involuntary manslaughter does not require intent and the killing here does not lack malice. Option C is incorrect because the doctrine of transferred intent supplies the intent for the actual killing. Option D is incorrect because the killing of B is murder by transferred intent, not manslaughter.

QUESTION 4

SINGLE CHOICE

Congress enacts a comprehensive federal statute regulating greenhouse gas emissions from motor vehicles. After the statute takes effect, a state enacts a law requiring stricter emission standards for vehicles sold within the state. The state law is challenged in court. Which constitutional doctrine most directly supports invalidating the state law?

- ☐ A The Dormant Commerce Clause.
- ☒ B The Supremacy Clause and federal preemption.
- ☐ C The Equal Protection Clause.
- ☐ D The Tenth Amendment anti-commandeering doctrine.

ANSWER B

WHY When Congress enacts a comprehensive federal regulatory scheme, it may expressly or impliedly preempt state laws in the same field under the Supremacy Clause. State laws that conflict with federal law or that frustrate the federal scheme are invalidated. The Dormant Commerce Clause applies to state laws that unduly burden interstate commerce in the absence of federal action, but here Congress has acted. Equal Protection and anti-commandeering principles do not address direct conflict between federal and state regulation.

QUESTION 5

MULTIPLE CHOICE

A plaintiff sues a defendant in federal court for damages arising from an automobile accident that occurred in the defendant's home state. The defendant is a citizen of the forum state. Which of the following statements about personal jurisdiction are correct? (Choose two.)

- ☐ **A** The federal court may exercise general personal jurisdiction over the defendant because the defendant is a citizen of the forum state.
- ☒ **B** The federal court may exercise specific personal jurisdiction over the defendant because the accident occurred in the forum state.
- ☐ **C** The defendant's presence in the forum state prevents the defendant from challenging personal jurisdiction.
- ☒ **D** Diversity jurisdiction requires that no defendant be a citizen of the forum state.

ANSWER B - D

WHY Specific personal jurisdiction exists when the defendant purposefully avails himself of the forum by conducting activities there, and the claim arises out of those activities—an accident in the forum satisfies this. Diversity jurisdiction under 28 U.S.C. § 1332 requires complete diversity, meaning no plaintiff may be a citizen of the same state as any defendant, so D is correct. General jurisdiction in the forum state is unnecessary when specific jurisdiction is established, and the defendant's citizenship of the forum state defeats diversity, not jurisdiction.

QUESTION 6

MULTIPLE CHOICE

A news organization publishes a story identifying a local business owner as having been 'arrested and charged with money laundering.' In fact, the business owner was never arrested or charged with any crime. The business owner sues the news organization for defamation. Which elements must the business owner prove to recover damages? (Choose two.)

- ☒ **A** Falsity of the statement
- ☒ **B** That the statement was published to a third party
- ☐ **C** That the news organization intended to cause emotional distress
- ☐ **D** That the business owner suffered actual injury to reputation

ANSWER A • B

WHY To establish defamation, a plaintiff must prove: (1) a false and defamatory statement; (2) publication to a third party; (3) fault; and (4) damages (or, in some jurisdictions, actionable per se). Falsity (A) is required, especially when the plaintiff is a public figure or the statement involves a matter of public concern, where actual malice must be shown. Publication to a third party (B) is a core element of defamation. Intent to cause emotional distress (C) is the standard for intentional infliction of emotional distress, not defamation. Actual injury to reputation (D) is required only in some contexts and is not an element distinct from damages.

QUESTION 7

MULTIPLE CHOICE

A state-law tort action is brought in federal court based solely on diversity jurisdiction. The federal procedural rule in question conflicts with the state procedural rule that would apply in state court. In applying the Erie doctrine, which two factors must a federal court consider in deciding whether to follow the federal rule? (Choose two.)

- ☒ **A** Whether the federal rule is procedural or substantive under the Rules of Decision Act
- ☐ **B** Whether the state legislature enacted the conflicting state rule
- ☒ **C** Whether application of the state rule would significantly affect the outcome of the case
- ☐ **D** Whether the parties have agreed to have the case decided in federal court

ANSWER A • C

WHY Under the Erie doctrine and its progeny (*Hanna*, *Burlington Northern*), a federal court sitting in diversity must first determine whether the federal rule is within the scope of the Rules Enabling Act (procedural vs. substantive). If the federal rule is valid and procedural under the Rules Enabling Act, it applies even if it differs from state law (*Hanna*). However, when there is no direct federal rule on point, courts apply the state rule if its application would be likely to significantly affect the outcome of the case (outcome-determination test from *Erie* and its gloss in *Byrd* and *Hanna*). The source of the state rule (B) and party agreement (D) are not the controlling factors in this analysis.

QUESTION 8

SINGLE CHOICE

A city council enacts an ordinance requiring all residents to obtain a permit before distributing any leaflet on public sidewalks. The ordinance grants the city council unbridled discretion to grant or deny permits. A resident challenges the ordinance on First Amendment grounds. The ordinance is most likely:

- ☐ A Constitutional because permits are a reasonable time, place, and manner restriction.
- ☐ B Unconstitutional because prior restraints on speech are absolutely prohibited.
- ☒ C **Unconstitutional because the unbridled discretion granted to the city council allows for viewpoint discrimination.**
- ☐ D Constitutional because leafletting is not protected by the First Amendment.

ANSWER C

WHY Even content-neutral permit schemes for expressive activity on public forums must contain narrowly drawn, reasonable, and nondiscriminatory standards governing the licensing authority's discretion. An ordinance vesting unbridled discretion in the licensing authority is facially unconstitutional because it invites viewpoint discrimination. Option A is incorrect because the lack of standards makes the permit scheme fail the standard time-place-manner test. Option B overstates the law: prior restraints are not absolutely prohibited, but they are subject to strict procedural safeguards. Option D is incorrect because leafletting on public sidewalks is a form of protected expression.