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PRACTICE QUESTIONS

The State Bar of California (Test Center)

FYLNIX

First-Year Law Students' Test Center Examination

EDITION

Original Demo

QUESTIONS

15

ISSUED

October 14, 2026

Before you begin

What this is

15 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

Original Mometrix demo. This free sample contains fewer questions than the full paid edition.

QUESTION 1

SINGLE CHOICE

A defendant intends to kill a specific person but mistakenly shoots and kills a bystander standing nearby. Under the doctrine of transferred intent, the defendant is most likely guilty of which crime?

- ☐ A Manslaughter of the bystander only
- ☐ B Attempted murder of the intended victim and murder of the bystander
- ☒ C Murder of the bystander only
- ☐ D No crime, because the defendant did not intend to kill the bystander

ANSWER C

WHY Under the transferred intent doctrine, when a defendant intends to commit a crime against one person but accidentally commits it against another, the intent transfers to the actual victim. Here, the defendant's intent to kill transfers to the bystander, making the defendant guilty of murder of the bystander. Attempted murder of the intended victim is not charged because that victim was not harmed, and the doctrine fully transfers intent rather than splitting the crime.

QUESTION 2

SINGLE CHOICE

A plaintiff who is a citizen of State A sues a defendant who is a citizen of State B in federal court. The amount in controversy is \$50,000. Which of the following is the most accurate statement about the court's jurisdiction?

- ☐ **A** The federal court has subject-matter jurisdiction based on diversity of citizenship under 28 U.S.C. § 1332.
- ☒ **B** The federal court lacks subject-matter jurisdiction because the amount in controversy does not exceed \$75,000.
- ☐ **C** The federal court has subject-matter jurisdiction based on a federal question under 28 U.S.C. § 1331.
- ☐ **D** The federal court has subject-matter jurisdiction based on supplemental jurisdiction under 28 U.S.C. § 1367.

ANSWER B

WHY Under 28 U.S.C. § 1332, federal diversity jurisdiction requires that the amount in controversy exceed \$75,000. Because the plaintiff's claim is only \$50,000, the diversity-jurisdiction requirement is not met. Option A is incorrect because it ignores the amount-in-controversy requirement. Option C is incorrect because the question states only a diversity-based scenario and no federal claim is alleged. Option D is incorrect because supplemental jurisdiction cannot create original subject-matter jurisdiction where none otherwise exists.

QUESTION 3

SINGLE CHOICE

A defendant, intending to kill a particular person, mistakenly shoots and kills a bystander standing nearby. Which of the following best describes the doctrine that holds the defendant liable for murder of the bystander?

- ☒ **A** Transferred intent applies to homicide and transfers the defendant's intent from the intended victim to the bystander.
- ☐ **B** Felony murder applies because the killing occurred during the commission of an inherently dangerous felony.
- ☐ **C** Diminished capacity applies because the defendant misidentified the victim.
- ☐ **D** The doctrine of impossibility applies because the defendant could not complete the intended crime.

ANSWER A

WHY Under the doctrine of transferred intent, when a defendant intends to commit a crime against one person but mistakenly harms another, the intent is transferred to the actual victim for purposes of liability. For homicide, this means the defendant is treated as having the requisite malice for murder even though the killing was unintended as to the actual victim. Felony murder requires an independent felony and is not the correct theory here. Diminished capacity and impossibility are not applicable on these facts.

QUESTION 4

SINGLE CHOICE

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

- ☐ A An excited utterance and therefore admissible under an exception to the hearsay rule.
- ☐ B A present sense impression and therefore admissible under an exception to the hearsay rule.
- ☒ C Hearsay not within an exception and therefore inadmissible.
- ☐ D Non-hearsay because the identity of the declarant is unknown.

ANSWER C

WHY An out-of-court statement offered to prove the truth of the matter asserted is hearsay. An unidentified bystander's statement identifying the defendant as the robber is classic hearsay. It does not qualify as an excited utterance (no startling event and stress is not shown) or a present sense impression (no contemporaneous perception described), so no exception applies. Option D is incorrect because the identity of the declarant does not affect whether a statement is hearsay; a hearsay declarant need not be identified by name.

QUESTION 5

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 6

SINGLE CHOICE

A shopper in a grocery store slips on a puddle of milk in an aisle and falls, suffering injuries. The store has a written policy requiring employees to inspect each aisle for spills every 30 minutes. Inspection records show the last inspection of that aisle was two hours before the fall. Which of the following best describes the store's potential liability?

- ☐ A Strict liability in tort for an abnormally dangerous activity.
- ☐ B Negligence per se because the store violated its own written safety policy.
- ☒ C Negligence based on breach of the duty of reasonable care, with breach and causation likely satisfied.
- ☐ D No liability because the store's policy is internal and creates no legal duty to shoppers.

ANSWER C

WHY Grocery stores owe business invitees a duty of reasonable care to keep the premises reasonably safe, including reasonable inspection and cleanup of hazards. Violation of an internal safety policy is not negligence per se (which applies to violations of criminal statutes or regulations), but it is strong evidence of breach of the standard of care. Causation is likely satisfied because the puddle existed for at least two hours before the fall. The store is not strictly liable for slip-and-fall accidents because such activities are not abnormally dangerous, and internal policies do create evidentiary duties relevant to the standard of care.

QUESTION 7

SINGLE CHOICE

A news organization publishes a story identifying a local business owner as having been arrested and charged with fraud, when in fact no arrest had occurred. The business owner sues for defamation. Which element is most likely to defeat the business owner's claim?

- ☒ **A** The business owner is a public figure and cannot prove actual malice.
- ☐ **B** The story is substantially true.
- ☐ **C** The business owner cannot identify damages.
- ☐ **D** The news organization has a First Amendment privilege that is absolute.

ANSWER A

WHY If the business owner qualifies as a limited-purpose public figure because the controversy involves matters of public concern, he must prove actual malice-knowledge of falsity or reckless disregard for the truth. Proving what an unknown reporter knew or should have known is difficult, and this heightened standard frequently defeats defamation claims by public figures. Truth would be a defense, but the facts state the story was false; damages are presumed for defamation per se; and the press privilege is not absolute.

QUESTION 8

SINGLE CHOICE

A defendant intends to kill a specific victim. He aims his gun at the intended victim and fires, but the bullet strikes and kills a bystander standing next to the intended victim instead. The bystander dies from the gunshot wound. Under the doctrine of transferred intent, the defendant is most likely guilty of which crime?

- ☐ A Murder of the bystander only
- ☐ B Attempted murder of the intended victim only
- ☒ C Murder of both the intended victim and the bystander
- ☐ D No crime, because the defendant did not intend to kill the bystander

ANSWER C

WHY Under the doctrine of transferred intent, when a defendant intends to commit a crime against one person but accidentally commits that crime against another person instead, the intent transfers to the actual victim. The defendant is guilty of murder of the bystander. Attempted murder (B) is not appropriate because the killing was completed, not just attempted. The defendant had the requisite malice aforethought for murder, which transfers along with the act.

QUESTION 9

SINGLE CHOICE

Congress enacts a statute that explicitly prohibits federal courts from hearing any legal challenge to a particular federal agency regulation. A plaintiff files suit in federal court challenging the validity of that agency regulation. How should the federal court most likely resolve the constitutional issue raised?

- ☐ **A** Dismiss the case, because Congress has plenary power over the jurisdiction of federal courts
- ☒ **B** Hear the case, because Article III courts have inherent judicial power that Congress cannot completely strip
- ☐ **C** Dismiss the case, because the plaintiff has an adequate alternative remedy in state court
- ☐ **D** Hear the case, because statutes restricting federal court jurisdiction are always invalid under the Constitution

ANSWER B

WHY Congress has substantial power to define federal court jurisdiction under Article III, but it cannot eliminate the core judicial power of Article III courts. Under cases like *Northern Pipeline* and *City of Boerne*, Congress cannot withdraw jurisdiction in ways that destroy the essential function of the federal judiciary. While Congress can channel and limit jurisdiction in many ways, withdrawing all judicial review of constitutional challenges to agency action raises serious separation-of-powers concerns that would likely lead the Court to recognize an inherent Article III role. Option A is incorrect because that power is not plenary in this context. Option D overstates the rule. Option C is irrelevant to the jurisdictional analysis.

QUESTION 10

MULTIPLE CHOICE

A seller sends a written offer to a buyer stating, 'I will sell you my car for \$5,000. This offer will remain open for 30 days.' The buyer wishes to ensure the offer cannot be revoked during the 30-day period. Under the common law (assuming the UCC does not apply), which of the following would create a binding option contract? (Choose two.)

- ☒ **A** The buyer sends the seller \$200 as consideration in exchange for the seller's promise to keep the offer open for 30 days.
- ☐ **B** The buyer signs a written promise to keep the offer open for 30 days, sealed and delivered to the seller, with no payment.
- ☒ **C** The buyer relies on the offer by purchasing non-refundable airline tickets to travel and pick up the car, telling the seller of the trip.
- ☐ **D** The buyer sends a written acceptance of the offer within the 30-day period.

ANSWER **A • C**

WHY Under common law, a firm offer (option contract) generally requires consideration. Option A provides consideration (\$200) in exchange for the seller's promise to hold the offer open, creating a valid option contract. Option C invokes the doctrine of promissory estoppel - the seller knew of the reliance and the reliance was reasonable and definite, which can support an option contract. Option B is incorrect because a sealed promise without consideration does not create a binding option contract under modern common law, and seals have generally lost their binding effect. Option D is simply an acceptance forming a contract, not a mechanism to keep the offer open.

QUESTION 11

SINGLE CHOICE

A citizen of State A sues a citizen of State B in federal court for \$80,000 based on a federal statute. The defendant moves to dismiss for lack of subject matter jurisdiction. How should the court rule?

- ☐ **A** Dismiss for lack of subject matter jurisdiction because the amount in controversy is above \$75,000 only if the plaintiff's claim is good faith.
- ☐ **B** Dismiss for lack of subject matter jurisdiction because the action does not satisfy complete diversity.
- ☒ **C** Retain jurisdiction because federal question jurisdiction exists under 28 U.S.C. § 1331, independent of the amount in controversy.
- ☐ **D** Retain jurisdiction only if the defendant consents to personal jurisdiction in the federal court.

ANSWER C

WHY Under 28 U.S.C. § 1331, federal district courts have original jurisdiction over all civil actions arising under the Constitution, laws, or treaties of the United States, without any amount-in-controversy requirement. The amount-in-controversy rule applies to diversity jurisdiction under 28 U.S.C. § 1332 and is not a requirement for federal question cases. Complete diversity is also a requirement only of diversity jurisdiction. The defendant's consent does not confer subject matter jurisdiction; the court must have an independent statutory basis. The court therefore has federal question jurisdiction and should retain the case.

QUESTION 12

SINGLE CHOICE

A defendant who lives and works in State A is sued in a federal district court in State B for an automobile accident that occurred entirely in State B. The defendant has never been to State B. The plaintiff serves process on the defendant at his home in State A. Which jurisdictional issue is most clearly raised?

- ☐ A Lack of subject matter jurisdiction because no federal question is alleged.
- ☐ B Lack of personal jurisdiction because the defendant was not served within the forum state.
- ☐ C Improper venue.
- ☒ D Lack of personal jurisdiction because the defendant lacks minimum contacts with the forum state.

ANSWER D

WHY Under *International Shoe* and its progeny, a court may exercise personal jurisdiction over an out-of-state defendant only if the defendant has minimum contacts with the forum state such that the assertion of jurisdiction does not offend traditional notions of fair play and substantial justice. Operating a motor vehicle in the forum state, even briefly, generally creates sufficient purposeful contacts for specific jurisdiction over a tort claim arising from that conduct. Service in another state does not by itself defeat personal jurisdiction if minimum contacts exist. The facts do not establish that the defendant purposefully availed himself of State B, so the minimum-contacts question is squarely presented. Subject matter jurisdiction could exist through diversity if the amount in controversy exceeds \$75,000 and the parties are diverse.

QUESTION 13

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 14

SINGLE CHOICE

A driver runs a red light and crashes into a pedestrian crossing the street with the walk signal. The pedestrian sues the driver for negligence. Which element will the pedestrian most easily establish?

- ☒ **A** Duty, because all drivers owe a duty of reasonable care to pedestrians.
- ☐ **B** Breach, because a reasonable driver does not run red lights.
- ☐ **C** Causation, because the crash would not have occurred but for running the light.
- ☐ **D** Damages, because the pedestrian would not have been injured absent the crash.

ANSWER A

WHY In a typical car-versus-pedestrian case, the duty element is the most easily established: drivers owe a duty of reasonable care to foreseeable plaintiffs such as pedestrians, and the pedestrian was a foreseeable plaintiff. Breach, causation, and damages each require additional factual proof (e.g., the pedestrian's comparative fault could complicate causation and damages). Because duty to a foreseeable plaintiff is generally a legal conclusion not dependent on the specific conduct, option A is the most defensible.

QUESTION 15

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.