

BOARD'S WRITTEN TEST

MARYLAND BAR EXAMINATION

Tuesday, July 28, 2015

Morning Session - 3 Hours

**The Multistate Performance Test is printed in a separate booklet.
Questions 1, 2, and 3 are printed in this booklet.**

IMPORTANT PROCEDURES

- 1. Sit in your assigned seat.** Occupy the place marked with the seat number assigned to you by the State Board of Law Examiners. Scores will be assigned by seat number, and no names shall appear on the answer booklets. Check each of your answer booklets at once to be sure that each bears your seat number. If you find a discrepancy, immediately contact a proctor for assistance.
- 2. Write each answer in the book designated for the question.** The morning session of the Board's Written Test has the Multistate Performance Test (MPT) and three essay questions numbered one through three. There is a separate answer booklet for the MPT and each numbered question. Write your answer for the MPT in the MPT answer booklet, your answer to question 1 in the booklet for question 1, the answer for question 2 in the booklet for question 2, and the answer to question 3 in the booklet for question 3. One team of graders scores all of the answers to a single question. Hence, your answer to a question will not be seen by the grading team and will not be graded unless it appears in the proper booklet.
- 3. Allocate the suggested writing time as you desire.** Each numbered essay question is intended to carry equal weight in the final grade. The MPT carries one and a half times the weight of an essay question. The suggested time to answer each essay question is 25 minutes. The suggested time to answer the MPT is 90 minutes. **Although these suggested times total 2 hours 45 minutes, you will have 3 hours to work on the morning session. You may allocate the difference (15 minutes) in any manner you deem appropriate.**
- 4. You will be allowed one answer booklet for each question.** Begin each answer at the top of a page. Do not copy the questions. Use one side of the page only until you have filled the booklet. Then turn the booklet over and write from back to front if you need more pages. **Do not tear pages from your booklets.** You also may use your test questions (including the MPT) and statutory extract for scratch work.
- 5. Develop your reasoning fully and write legibly.** The Board will not grade an illegible answer. Print your answers if your handwriting is difficult to read.
- 6. Obtain Board Staff Assistance at the end of the test session if you write an answer in the wrong booklet.** Do not waste testing time trying to fix the administrative mistake. When the morning test session concludes, you will be given an opportunity to have the Board's Staff assist you in correcting the problem. Thereafter, any answer appearing in the wrong booklet will not be graded.
- 7. You must turn in all test answer booklets to your proctor.**
- 8. You may keep the essay test questions and statutory extract when testing ends. However, you must turn in the MPT question booklet.**

AN EXTRACT HAS BEEN PREPARED FOR YOUR USE IN ANSWERING QUESTION 1. IT HAS BEEN PRINTED SEPARATELY. IF YOU DID NOT RECEIVE A COPY OF THE EXTRACT, PLEASE CONTACT YOUR PROCTOR AND OBTAIN A COPY BEFORE ANSWERING THE QUESTION.

QUESTION 1 (Tan Answer Book/Tan SofTest™ Header)
(25 Minutes)

Triple A Timber owns unimproved property in Washington County, Maryland. Triple A Timber purchased the property in July 2014 with the knowledge that it was landlocked. The property is located west of what is known as North-South Highway, a public road. The property between Triple A Timber and the public road consists of two parcels owned by Bart and Carol respectively. The properties owned by Bart and Carol had a common boundary over which is the shortest distance to the public road. Triple A Timber desires to timber its property. To do so, it needs access to the public road. Bart and Carol have refused to grant access across either of their properties.

Assume you are a licensed Maryland attorney familiar with property matters. Triple A Timber wants you to help it gain access to the public road over the shortest distance.

In researching the matter for Triple A Timber, you become aware of the following:

The parcels, which are now owned by Triple A Timber, Bart, and Carol, were purchased by Jones as one tract in 1918. By a deed dated May 1, 1920, Jones conveyed 10 acres to Bart's uncle. The deed was recorded on May 1, 1920. Ultimately, Bart's uncle conveyed the parcel to Bart.

By deed dated June 1, 1925, Jones conveyed 10 acres to Carol's mother. Her deed was recorded June 5, 1925. Carol's mother ultimately conveyed the parcel to Carol. None of the deeds in either chain of title mention access of any kind. Both Bart and Carol have "No Trespassing" signs along North-South Highway and none of the parties are aware of any old roadways across either Bart's property or Carol's property. There is evidence of timbering on Triple A Timber's parcel in the 1930's and evidence of a garden nursery on Triple A Timber's parcel in the 1940's. However, the only evidence of "access" was over Donna's parcel, which is further to the north. Donna has also denied access to Triple A Timber. Donna's title source is not connected to Triple A Timber, Bart, or Carol.

Bart contends that:

- (1) Triple A Timber is not entitled to access.
- (2) In the alternative, if Triple A Timber is entitled to access:
 - (a) Access should be over the parcel belonging to Donna, or
 - (b) Access should be over Carol's property.

How would you respond on behalf of Triple A Timber regarding each contention made by Bart? Explain fully.

QUESTION 2 (Green Answer Book/Green SofTest™ Header)
(25 Minutes)

Abel was proceeding lawfully down Maryland Route 4 in Calvert County, Maryland, in his own motor vehicle returning home from a Baltimore Ravens football game. David, in his own vehicle, on his way to a doctor's appointment, ran through a red light and struck Abel's car. Abel was hospitalized. The medical staff heard Abel groaning continuously, and he died eight days later. David survived.

Abel was survived by Paula, his wife, and his 22 year-old son, Bill, and his 14 year-old daughter, Carla. After the funeral, Paula was driving down the street and saw an advertisement for Larry, an attorney newly admitted to practice in Maryland. The advertisement stated, "Practice limited to Decedent's Estates." Paula met with Larry to assist in the administration of the assets of Abel's estate. Abel had been employed as an engineer at an annual salary of \$100,000. Larry told Paula that, while he (Larry) specializes in estate administration, he frequently consulted Marvin, an attorney whose office was down the hall. Marvin had assured Larry that he (Marvin) was highly experienced in personal injury law and would be happy to mentor Larry. Larry, as a young and inexperienced lawyer, accepted Marvin's assurance. In fact, Marvin's entire legal experience has been fifteen years as an assistant State's Attorney in the child support division. Larry advised Paula that he would represent the family regarding the accident. Paula retained Larry regarding the accident and the administration of the estate.

Larry assisted Paula in opening an estate and the appointment of Paula as Personal Representative. Marvin told Larry and Paula that the statute of limitation in Maryland was twelve years.

After four years of inactivity and numerous unreturned phone calls, Paula discharged Larry and retained Robert regarding the accident.

- A. What potential causes of action under the facts are available against David, if any, claiming what types of damages?**
- B. What violations of the Maryland Lawyers Rules of Professional Conduct, if any, were committed by Larry?**

QUESTION 3 (Yellow Answer Book/Yellow SofTest™ Header)
(25 Minutes)

A) Lori is in the midst of litigation concerning competing claims of ownership of title to a parcel of real property in Montgomery County, Maryland. She is seeking to admit records of the regional planning and zoning authority with respect to the subdivision of the land in question, as well as the recordation of said subdivision plats among the Land Records of Montgomery County. Her opponent objects to these admissions.

How should the court rule and why?

B) Lori also seeks to admit records from the State Department of Health concerning the death of previous heirs to the property, as well as church records pertaining to the marriage of other previous heirs to the property. Her opponent objects.

How should the court rule and why?

C) Lori then seeks to admit copies of Land Patents dating back to the independence of the United States. Her opponent objects.

How should the court rule and why?

D) Finally, Lori seeks to admit the testimony of neighbors in the affected area as to the common local understanding of ownership interests in the property. Her opponent objects.

How should the court rule and why?

E) Her opponent seeks to counter this evidence by admitting testimony from a community member that one of the individuals testifying as to alleged ownership interests in the property has a reputation in the community as being completely unreliable and untruthful. Lori objects.

How should the court rule and why?

F) Among other things, the community member testified regarding statements made by other neighbors who claimed to be repeating statements made by the individual who is alleged to be untruthful. Lori objects.

How should the court rule and why?