

**OUT-OF-STATE
ATTORNEY'S EXAMINATION
MARYLAND BAR EXAMINATION
TUESDAY, JULY 26, 2016
(100 POINTS – 3 HOURS)**

IMPORTANT

1. **Sit in your assigned seat.** Be sure you are occupying the place marked with your assigned seat number. Check your answer book at once to be sure that it does bear the same number. If it does not, contact a Proctor at once.
2. **Allocate the suggested writing time as you desire.** The questions will indicate the number of points allotted and the time estimated to answer each one. The maximum score for the examination is 100 points. The estimate of time on each question is merely suggested.
3. **Use one answer book for the entire test.** Begin each answer at the top of a page. Do not copy the questions. Use one side of page only until you have filled the book. Then turn the book over and write from back to front if you need more pages. **Do not tear pages from your book. You may use the test questions for scratch work.**
4. **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.
5. **Cite the applicable rules and statutes.** Since this is an open-book examination you will be expected to make a reference in your answer to the Rule(s) or statutory source(s) upon which your answer is based.

YOU MAY KEEP THIS PAPER.

Point Values and Suggested Time for Questions

| | <i>Point Values</i> | <i>Suggested Time</i> |
|-------------------------------|---------------------|----------------------------------|
| Question 1 | 10 | 18 minutes |
| Question 2 | 5 | 9 minutes |
| Question 3 | 15 | 27 minutes |
| Question 4 | 30 | 54 minutes |
| Question 5 | 15 | 27 minutes |
| Question 6 | 10 | 18 minutes |
| Question 7 | 15 | 27 minutes |
| TOTALS FOR EXAMINATION | 100 POINTS | 180 MINUTES (3 HOURS) |

QUESTION 1

(10 points – 18 minutes)

Xavier, a then 19-year-old resident of Ocean City, Maryland, met Susan at an Ocean City restaurant on August 5, 2011. The two hit it off, and Susan accompanied Xavier back to his apartment that night. Xavier later walked her to the nearby hotel where she and her mom were staying.

On August 15, 2011, Xavier was lawfully arrested by the Ocean City Police Department. He was charged with second degree rape for having sexual relations with Susan, a then 15-year-old minor. Xavier vehemently argued that he did not have relations with Susan, and did not know she was underage. Xavier's court-appointed public defender advised that he was facing serious jail time, that Susan's story was convincing, and Xavier should accept the State's offer to reduce the charge to a fourth degree sexual offense with a recommended sentence of 6 to 10 months of incarceration. Xavier agreed and ultimately entered an Alford plea. He was sentenced to nine months.

Six years later, Xavier ran into Susan. She effusively apologized for lying about him, but thought she had no other choice after being browbeaten by her mother for her late return to the hotel, and her later "interrogation" by the police detectives. She also told Xavier her mom "shipped her away to live with an aunt in Maine." Susan also stated that she had never spoken to Xavier's attorney. However, Xavier's public defender never advised him of that fact.

- A. Xavier comes to you, a licensed Maryland attorney, and asks if there is anything he can do about his criminal record given Susan's recent statement. What would you advise?**
- B. What charges might Bar Counsel bring given these facts?**

FACTS APPLICABLE TO QUESTIONS 2 AND 3

On May 30, 2015, Billie Mae was arrested by a Prince George's County, Maryland, police officer and charged with misdemeanor theft under \$300. Billie Mae suffered a broken wrist during the course of her arrest.

On August 20, 2015, the State entered a nolle prosequi on the theft charge in the District Court of Maryland for Prince George's County. On January 20, 2016, Billie Mae's attorney filed a civil action against the County seeking \$250,000 in unliquidated damages for the injury she sustained during the arrest.

QUESTION 2

(5 points – 9 minutes)

As County Attorney for Prince George's County, what grounds would you raise in a motion to dismiss?

ADDITIONAL FACTS FOR QUESTION 3

On July 2, 2016, Billie Mae filed a petition in the Circuit Court for Prince George's County seeking an expungement of her arrest records and the criminal charge.

QUESTION 3

(15 points – 27 minutes)

As State's Attorney, what objections would you raise to the petition for expungement, and why?

QUESTION 4

(30 points – 54 minutes)

Elbert went turkey hunting in the woods in Hanover, Maryland, on Thanksgiving Day. He took his 12-year-old son Randy with him, as he believed it was Randy's time to learn how to hunt with the family shotgun.

When Elbert heard a sound, he turned and fired. Unfortunately, the shot hit Aleem, who was walking his dog in the area, causing minor damage to his hand.

Aleem was outraged and filed suit for negligence against both Elbert and Randy, seeking \$50,000 in damages. Aleem hired James Sonny Trump ("Sonny"), a Maryland lawyer who advertised that no one expertly represents the people in Hanover, Maryland, better than he does. Sonny requested \$15,000 up front and said if the matter goes to court, another \$15,000 would be due.

Aleem paid the \$15,000 by check which Sonny deposited into his operating account to begin work on Aleem's case. Subsequently, Aleem made several phone calls to Sonny inquiring about the status of this case, which Sonny did not return. The only response Aleem received for two months was an email from Sonny saying, "I am working on your case." Aleem later learned that Sonny's sole legal experience consisted of criminal defense work in Hanover and that Sonny and Elbert are long-time hunting buddies. Sonny also tells Aleem that he planned to sue only Randy, not Elbert, so there was no conflict. Aleem believed Sonny would not zealously represent his interest. Aleem fired Sonny and sought a return of his retainer. Sonny refused to provide the refund, indicating that he had begun to research the case and already used the money.

Aleem files a complaint with Bar Counsel. Based on these facts, what charges could Bar Counsel bring against Sonny?

QUESTION 5

(15 points – 27 minutes)

You are a licensed Maryland attorney who represents an entertainment entity looking to locate in Charles County, Maryland. On July 1, 2016, the Charles County Board of Appeals ("the Board") issued a written decision denying your client's application for a special permit to operate an adult entertainment venue, since the Board felt that a local church association's moral objection was sufficient to deny the request. Your client has to be licensed and operating as soon as possible or it will lose its financing and ability to operate in the County.

What legal action(s) would you have to take on behalf of your client to try to reverse the Board's decision and meet your client's timing deadline?

FACTS APPLICABLE TO QUESTIONS 6 AND 7

Ivy is the owner of a small boutique located in Glenelg, Maryland. She often purchases sweaters from Yeazy's Yarns, a New York corporation with its principal place of business in Ithaca, New York.

On May 15, 2016, Yeazy's Yarns shipped 30 sweaters to Ivy for the agreed upon sum of \$3,500. Yeazy's Yarns never received payment from Ivy. Yeazy's Yarns therefore sued Ivy and obtained a default judgment from the appropriate court in Ithaca, New York.

QUESTION 6

(10 points – 18 minutes)

On June 19, 2016, Yeazy's Yarns, Inc. contacted you for advice as to how to make the judgment enforceable in Maryland. What would you advise?

ADDITIONAL FACTS APPLICABLE TO QUESTION 7

On June 25, 2016, Ivy received notice of the enrolled judgment. On the same date, she asked Larry Lawyer for advice as to the best way to contest the judgment, since she never heard anything from the company until provided the notice of the enrolled judgment in Maryland.

QUESTION 7

(15 points – 27 minutes)

Larry Lawyer asks you, his junior associate, to research the law and prepare a brief position paper on the various avenues to attack or appeal the judgment. What would you advise? Discuss fully.