

**OUT-OF-STATE
ATTORNEY'S EXAMINATION
MARYLAND BAR EXAMINATION
TUESDAY, JULY 25, 2017
(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	20	36 minutes
Question 2	10	18 minutes
Question 3	10	18 minutes
Question 4	10	18 minutes
Question 5	20	36 minutes
Question 6	10	18 minutes
Question 7	10	18 minutes
Question 8	10	18 minutes

**TOTALS FOR EXAMINATION 100 POINTS 180 MINUTES
(3 HOURS)**

PRELIMINARY FACTS FOR QUESTIONS 1 THROUGH 8

Adam Adams owns Alpha, Inc., a widget marketing firm in Anne Arundel County, Maryland. Betsy Benjamin also owns a widget marketing firm, Beta, Inc. Although both companies are located in Anne Arundel County, they actively do business throughout Maryland. Adam has worked very hard to make Alpha into one of Maryland's most respectable and profitable widget marketing firms. All Alpha employees sign a contract with a restrictive covenant assuring that they will not disclose any of Alpha's confidential information or solicit any of its customers. Alpha has consistently been more profitable than Beta for the past several years.

Alpha has a contract with Beta to supply Beta with widget market analysis. The agreement requires Beta to pay for the analysis within 30 days of delivery. Beta is over 45 days in arrears on its payments to Alpha.

Caitlin, an employee of Alpha, leaves Alpha to work for Beta because she is promised more money. Almost immediately Betsy pressures Caitlin for information about Alpha which she believes will give Beta a competitive edge in the market. Caitlin recalled that Alpha kept a confidential list of clients that contained certain proprietary client information. After Caitlin refused to disclose Alpha's confidential client list, Betsy fired Caitlin without paying her the \$4,500 owed her as salary.

In January 2015, Beta hacked into Alpha's computer server and copied Alpha's confidential client list. Betsy then disseminated a pamphlet to all of Beta's and Alpha's customers, stating "Beta is better. Some of Our Competitors, Like Alpha, Don't Hire Qualified Staff and provide inaccurate data analysis."

Adam believed that a lawyer would cost too much and decided to file suit himself two years later on behalf of Alpha, Inc. in the District Court for Anne Arundel County against Betsy, Beta, Inc., and Caitlin, for injunctive and declaratory relief, defamation, and breach of contract. Caitlin and Betsy seek to hire Larry Lawyer for legal consultation and representation in connection with the Alpha suit.

QUESTION 1 *(20 Points – 36 Minutes)*

Discuss the basis of any motions you would file if you were defending the Alpha suit. What issues would you discuss with Caitlin and Betsy regarding your representation of them?

QUESTION 2

(10 Points – 18 Minutes)

Alpha decides to hire counsel because Adam realizes the matter is more complicated than he had thought. As part of its suit against Beta, Alpha seeks \$30,000 in unpaid invoices for market analysis. Alpha's counsel provided Beta's counsel with notice 60 days before the trial that she intended to introduce into evidence at trial seven invoices received by Alpha from consultants in connection with the analysis performed by Alpha. Assume Alpha, Inc. has already paid three of the invoices and that the remaining four invoices are unpaid. Beta's lawyer objects to the introduction of the invoices.

How will the Court rule on the admission of the bills without testimony from the bill providers? Explain your answer fully.

QUESTION 3

(10 Points – 18 Minutes)

Assume that Beta has prayed a jury and the matter is now pending in the Circuit Court. Unbeknownst to Betsy, Caitlin recorded her conversation with Betsy, wherein Betsy stated that she planned to lie on the stand about having Alpha's confidential client list. The video also captures Betsy holding the confidential client list. Caitlin mails the tape to Alpha's attorney who then attempts to offer it into evidence at a trial against Beta and Betsy. There is a timely objection to the admission of the tape.

A. What if any grounds would Betsy's counsel have to make an objection to this evidence?

B. How should the court rule as to this issue and why?

Explain your answers fully.

ADDITIONAL FACTS FOR QUESTIONS FOR 4 THROUGH 5

While the jury in the Alpha/Beta suit was deliberating, Alpha and Beta, through their counsel, agreed to settle the matter for \$750,000. The attorneys had their respective clients execute a written settlement agreement. A day later, after talking with a friend from South Carolina who advised Betsy that she should pay less money, Betsy informed Larry Lawyer that she did not want to go through with the deal. After Larry informed her that it was too late to withdraw on the agreement, Betsy fired Larry Lawyer and retained Dim Whitty to represent her. During the hearing in the Circuit Court on Alpha's motion to enforce the settlement, Betsy testified that her previous lawyer never told her about a settlement, and that she had never seen the settlement agreement before and had not signed it. Larry Lawyer is present in the courtroom during Betsy's testimony.

QUESTION 4

(10 Points – 18 Minutes)

What is the basis of any action Larry Lawyer should take in response to Betsy's testimony?
Explain your answer fully.

ADDITIONAL FACTS FOR QUESTION 5

After terminating Larry's services, Betsy refused to reimburse him for certain costs related to her criminal case. Betsy then requested that Larry turn over her case files to her new counsel for use in her ongoing legal actions. Larry fears that Betsy may refuse to pay him his fees and expenses. Larry has a verbal contingency agreement with Beta, Inc. and Betsy that they would pay all fees and costs plus \$5,000 if they lost, \$10,000 if the case settled, or \$20,000 if they won.

QUESTION 5

(20 Points – 36 Minutes)

- A. Is Larry Lawyer obligated to turn over his files?**
 - B. What steps can Larry take to assure payment of his fees and costs?**
 - C. What fees, if any, are Larry likely to recover?**
- Explain your answers fully.**

QUESTION 6
(10 Points – 18 Minutes)

Assume that Caitlin files her own suit against Betsy and Beta, Inc. solely to recover the \$4,500 in salary owed her. She intends to propound interrogatories on Betsy and requests a trial by jury.

- A. In what court(s) can Caitlin bring suit?**
- B. How many interrogatories is Caitlin allowed under the Maryland Rules?**
- C. Can she have her case tried by a jury? Why?**

Explain your answers fully.

QUESTION 7
(10 Points – 18 Minutes)

While walking out of the courthouse in connection with her suit to recover her salary, Caitlin is shoved down the steps by Betsy. Assume two years later that Caitlin sues Betsy for \$9,000 for assault, intentional infliction of emotional distress, and trespass to personal property for breaking her briefcase.

- A. In what Maryland court(s) can Caitlin bring her suit?**
- B. Does Betsy have the basis for a dispositive motion on Caitlin's claims?**

Explain your answers fully.

QUESTION 8
(10 Points – 18 Minutes)

Betsy is being prosecuted for her assault on Caitlin. During the trial, the State called Rev. Ray, who testified that Betsy confessed to him after church services that she had pushed Caitlin down the stairs because she felt Caitlin was “a no-good snake.”

- A. Under what legal basis(es) can Betsy's attorney attempt to prevent Rev. Ray from testifying?**

- B. How will the court rule on this issue and why?**

Explain your answers fully.

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