

**OUT-OF-STATE  
ATTORNEY'S EXAMINATION  
MARYLAND BAR EXAMINATION  
TUESDAY, FEBRUARY 27, 2018  
(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 points           | 18 minutes                       |
| Question 2                    | 10 points           | 18 minutes                       |
| Question 3                    | 5 points            | 9 minutes                        |
| Question 4                    | 10 points           | 18 minutes                       |
| Question 5                    | 10 points           | 18 minutes                       |
| Question 6                    | 15 points           | 27 minutes                       |
| Question 7                    | 10 points           | 18 minutes                       |
| Question 8                    | 5 points            | 9 minutes                        |
| Question 9                    | 10 points           | 18 minutes                       |
| Question 10                   | 15 points           | 27 minutes                       |
| <b>TOTALS FOR EXAMINATION</b> | <b>100 POINTS</b>   | <b>180 MINUTES<br/>(3 HOURS)</b> |

## **PRELIMINARY FACTS FOR QUESTIONS ONE THROUGH FIVE**

Dewayne was robbed at gunpoint while working the late shift at a copy shop in Cheverly, Maryland. Dewayne suffered a minor injury when the assailant, who had stolen \$150 in cash, attempted to shove Dewayne down behind the counter before fleeing the scene, and Dewayne hit his head on the cash register. Dewayne, however, maintained his footing and observed the assailant flee on a light-colored bicycle. Dewayne immediately reported the incident to the police. Dewayne reported that the assailant was wearing a ring with a large, dark-colored stone on his right hand.

Early the next morning, Officer Bob of the Cheverly Police noticed an individual riding erratically on a light-colored bicycle. Officer Bob conducted a traffic stop because he felt this bicycle might have been involved in the copy shop robbery. Officer Bob then noticed that the rider of the bike was wearing a large ring on his right hand. Officer Bob placed the bicycle rider, who identified himself simply as Marcus, under arrest for robbery with a deadly weapon, use of a firearm in a crime of violence, and first and second degree assault. Upon his search of Marcus incident to the arrest, Officer Bob located a gun in Marcus' backpack and \$120 in cash in his wallet.

Marcus appeared the next morning in the District Court of Maryland for Prince George's County for a bail review. Two days later, Marcus hired Walter as his attorney. Attorney Walter immediately entered his appearance and filed a request for a preliminary hearing and a jury trial demand.

### **QUESTION 1**

(10 points – 18 minutes)

- a. Discuss the basis of any pretrial motions that Attorney Walter should file on Marcus' behalf and the timeframe for filing said motions.**
- b. How should the court rule on the request for a preliminary hearing?**

### **QUESTION 2**

(10 points – 18 minutes)

Following the denial of all pre-trial motions filed by Attorney Walter and the satisfactory completion of all pre-trial procedures and requirements, trial properly commenced in the Circuit Court for Prince George's County. The State sought to introduce the testimony of Danielle, Marcus' ex-wife, and proffered upon Attorney Walter's objection that her testimony would show that while they were still married, Marcus told Danielle of his plan to rob the copy shop. The State's Attorney also proffered that no one else was present when this conversation took place between Marcus and Danielle.

- a. On what basis(es) should Attorney Walter argue for the exclusion of this testimony?**
- b. How should the court rule?**

### **QUESTION 3**

(5 points – 9 minutes)

The State then called Michael, who had visited Marcus on the evening of the robbery. The following colloquy occurred:

The State: Were you interviewed by Officer Bob about any money-related conversations you had with Marcus on the night in question?

Michael: Yeah, we talked, but he didn't mention money.

The State: You didn't tell Officer Bob that Marcus stated that he really needed money and hadn't been able to collect enough to cover what he needed?

Attorney Walter: Objection, your Honor, the State is impeaching its own witness.

The Court: Overruled.

Michael: I never said anything like that.

**Was the court's ruling on Attorney Walter's objection correct? Explain your answer.**

#### **QUESTION 4**

(10 points – 18 minutes)

Marcus' sole witness was Maria. Maria testified that Marcus had been with her the entire evening in question. On cross-examination, and based upon a search of appropriate public records, the State asked Maria whether she had been convicted of felony counterfeiting in September 2012, whether she had been convicted of possession of cocaine in June 2004, and whether she had been represented by counsel in each proceeding. Attorney Walter objected on relevance and foundation grounds, and the State proffered that Maria had pleaded *nolo contendere* to the counterfeiting charge in 2012, and was convicted following a bench trial of possession of cocaine in 2004.

**How should the court rule on Walter's objection? Explain your answer.**

#### **QUESTION 5**

(10 points – 18 minutes)

Marcus was found guilty of robbery with a deadly weapon and second degree assault and sentenced to three years' incarceration.

**What options does Marcus possess to either overturn his conviction or reduce his sentence, and under what timeframe(s) must he act?**

#### **PRELIMINARY FACTS FOR QUESTIONS SIX THROUGH TEN**

During the course of the investigation into the robbery, it was revealed that Marcus had stolen the gun he had used from Faouzi, a friend of his who owns and manages an IT business in neighboring Charles County, Maryland. Following Marcus' incarceration, Dewayne filed suit seeking \$100,000 in damages against Faouzi for, among other things, negligence. Faouzi lives in St. Mary's County, Maryland, and Dewayne lives in Calvert County, Maryland.

#### **QUESTION 6**

(15 points – 27 minutes)

**a. In what county(ies) and which court(s) may Dewayne file his Complaint against Faouzi?**

Dewayne filed both a Complaint and a Motion for Summary Judgment in the court of proper jurisdiction and venue, and his Motion for Summary Judgment was supported by affidavits which provided a proper factual basis for recovery. The Complaint, Summons, and Motion for Summary Judgment were all served on Faouzi in a proper and timely fashion.

**b. Within what timeframe must Faouzi respond to the Complaint and the Motion for Summary Judgment?**

**c. Is it possible for Faouzi to avoid the entry of summary judgment exclusively by contesting the legal basis of the case against him in his response to the Motion? Explain fully.**

## QUESTION 7

(10 points – 18 minutes)

Summary judgment was denied and discovery commenced. Dewayne served forty-two interrogatories on Faouzi. Faouzi did not answer the interrogatories within thirty days.

- a. **What should Dewayne do in order to secure answers to the interrogatories?**
- b. **What should Faouzi do to continue to resist answering all of the interrogatories?**

## QUESTION 8

(5 points – 9 minutes)

Marcus had previously confessed to the crimes of which he was accused while seeking spiritual consolation from Father Somchai. The matter proceeds to a jury trial, and Dewayne calls Father Somchai to testify, after properly listing him as a witness, and inquires as to the substance of his conversations with Marcus relating to the events surrounding his incarceration. Faouzi objects and asserts that Marcus' conversations with Father Somchai are privileged.

**How should the Court rule and why?**

## QUESTION 9

(10 points – 18 minutes)

At the conclusion of the trial, Faouzi makes a motion for judgment, which is denied. The jury finds in favor of Dewayne and awards him \$10,000 in damages.

- a. **What motion(s) can Faouzi file in an effort to overturn this result, and in what timeframe must said motion(s) be filed?**
- b. **Are there any restrictions on Faouzi's ability to make such motions?**

## QUESTION 10

(15 points – 27 minutes)

The \$10,000 jury verdict stands. Dewayne's attorney, pursuant to their verbal agreement for an eighty-percent contingency fee, keeps \$8,000. Dewayne is very frustrated by this result, particularly since his attorney guaranteed him a recovery of at least \$100,000, marketed his services as a "juror profiling expert," and told Dewayne that he was "the best lawyer in Southern Maryland."

**a. What potential professional conduct complaints might Dewayne raise with the Attorney Grievance Commission? Explain fully.**

Dewayne's attorney feels that Dewayne's complaints against him are baseless.

**b. Is Dewayne's attorney obligated to respond to a related inquiry from the Attorney Grievance Commission?**