

BOARD'S WRITTEN TEST

MARYLAND BAR EXAMINATION

Tuesday, February 26, 2019

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. If you are hand writing, 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 or type each answer in the book or answer field 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/answer field for the MPT and each numbered question. 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 or answer field.
- 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. Handwriters 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 or type in the wrong answer field.** 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 or field may not be graded.**
- 7. You must turn in all test answer booklets, scratch workbooks, and the MPT Question Book to your proctor.**
- 8. You may keep the Board's essay test questions when testing ends.**

QUESTION 1 (Tan Answer Book/Tan Exemplify™ Header)

(25 minutes)

Mary owned adjacent 25-acre parcels (“Parcels 21 and 22”) located in Downsville, Washington County, Maryland. On Parcel 21, she built a house and constructed a gravel driveway. A portion of the driveway was located on Parcel 22. There were no other improvements on Parcel 22.

On March 19, 1994, Mary sold Parcel 21 to Peter. At the real estate closing, she conveyed with the title, by separate recorded deed, an express easement across a portion of Mary’s Parcel 22 for use as a driveway and ingress and egress by vehicles and pedestrians to and from Peter’s Parcel 21 property. Peter has used the Parcel 21 property as a rental for ten years and thereafter as his home.

Mary sold Parcel 22 to Paul on September 17, 2003. Within a year, Paul built a vacation cottage on Parcel 22 and started clearing some portions of the parcel for gardening and planting. The September 17, 2003 deed incorporated the express easement over Parcel 22.

From the very beginning of his ownership of Parcel 21, Peter allowed his tenants to use, and he used, on a regular basis, a short-cut across Parcel 22, outside the boundary of the express easement, as an additional driveway and for ingress and egress from Parcel 21. When Peter moved into the house on Parcel 21, he continued to use the same short-cut. If asked, Peter would say that the short-cut was faster, easier, and shorter than the express easement.

Mary never communicated with Peter or his tenants about their use of the short-cut over Parcel 22. On April 2, 2017, Paul confronted Peter with protests that he should not be using the short-cut and disputed Peter’s use of the short-cut. Paul began placing obstacles on the short-cut and “No Trespassing” signs on the short-cut. Peter has ignored Paul’s efforts. Based on the given facts, Peter wants you as his Maryland attorney to file suit against Paul so that this matter can be resolved.

A. Provide a legal analysis of Peter’s cause(s) of action in this matter.

B. Assume that Peter’s evidence sets forth a prima facie case in his favor. What is Paul’s burden of proof on the facts in dispute in this case?

QUESTION 2 (Green Answer Book/Green Exemplify™ Header)
(25 minutes)

Blake and Drake, both of whom are merchants involved in the purchase and sale of widgets, entered into a legally-binding written contract by which Blake agreed to purchase 500 widgets from Drake for \$20,000. Two weeks before the scheduled delivery date, Blake contacted Drake and stated that he was canceling the contract due to a sudden and unanticipated drop in the market demand for widgets. The contract contained no provisions relating to cancellation. Drake immediately wrote to Blake and informed him that he had no intention of canceling the contract, would deliver the widgets as agreed, and demanded appropriate assurances from Blake that he would honor the agreement. Drake is aware that he would be able to sell the widgets for a higher price to a different buyer.

Drake has approached you, a licensed Maryland attorney, and requested an analysis of his options under the Maryland Commercial Law Article.

Question 3 (Yellow Answer Book/Yellow Exemplify™ Header)
(25 minutes)

Bob and Alice began dating in 2000, shortly after both graduated from college. In 2001, they moved into Bob's home, a graduation gift from his wealthy parents. Their daughter, Carol, was born in 2008. In 2011, Bob and Alice married, and Carol was diagnosed with severe autism. Soon thereafter, Bob suggested that Alice should quit her job as an administrative assistant to become a stay-at-home mom, which Alice did. Bob's salary at that time was \$200,000, and he believed that to be sufficient to provide for the "loves of his life."

Over the next few years, Alice noticed gradual changes in Bob – he began to drink more alcohol and to become verbally abusive. Alice initially attributed Bob's behavior to his stressful job. However, in the summer of 2018, Bob abruptly moved out of their bedroom. He also became physically abusive, and continually threatened to throw both Alice and Carol out of the house, saying that Alice was a "noncontributing freeloader" and Carol was "an albatross around his neck."

In January 2019, Alice comes to you, a licensed Maryland attorney, and asks that you start divorce proceedings against Bob. She also asks if there is any immediate recourse she could seek from the appropriate court.

- A. Discuss all grounds upon which Alice might initiate divorce proceedings.**
- B. What immediate relief can Alice and Carol receive from the court? Discuss fully.**