

# PRACTICE EXAM 14: CALIFORNIA ESSAY EXAM SIMULATION (50 QUESTIONS)

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1. What is the appropriate use of headings in a California Bar essay answer?
  - A. Headings should never be used because they disrupt the narrative flow of analysis
  - B. Headings should be in bold capitals and underlined for maximum grader emphasis
  - C. Headings should organize the answer by issue or party for easy grader navigation
  - D. Headings should list every potential rule of law before the analysis begins each time
  
2. A California essay involving an omitted spouse under the Probate Code requires analysis of:
  - A. Whether the surviving spouse has retained admitted California probate counsel currently
  - B. Whether the surviving spouse is older than fifty years of age at the date of death
  - C. Whether the surviving spouse holds joint title with the testator on any property of record
  - D. Whether the spouse married the testator after the will and was not provided for in the will
  
3. When a California essay involves a question of contract integration, the examinee should analyze:
  - A. Whether the writing was intended by the parties as a final and complete expression
  - B. Whether the parties signed the agreement in front of a duly licensed California notary
  - C. Whether the contract was reviewed by an attorney before being signed by both parties
  - D. Whether the parties had transacted business together in any prior similar dealings before

4. A California essay involving a question of the Statute of Frauds in real estate requires analysis of:

- A. Whether the contract was reviewed by an attorney before being signed by both parties at signing
- B. Whether a writing identifies the parties, property, price, and is signed by the party charged
- C. Whether the parties had transacted business together in any prior similar real estate deals
- D. Whether the parties signed the contract in front of a duly licensed California notary public

5. When a California essay involves a question of strict liability for animals, the examinee should analyze:

- A. Whether the animal owner has been previously sued in any prior similar tort actions filed at trial
- B. Whether the animal owner has retained licensed California tort defense counsel for the action
- C. Whether the animal owner has filed all required California state tax returns timely each year
- D. Whether the animal is wild or domestic and the owner knew of dangerous propensities

6. A California essay involving the doctrine of voluntary manslaughter requires analysis of:

- A. Whether the defendant has prior convictions for any violent felonies on record in California state
- B. Whether the defendant carried a concealed weapon at the time of the alleged criminal offense
- C. Whether the killing occurred in the heat of passion upon adequate provocation
- D. Whether the defendant has been previously charged with similar offenses in any prior actions

7. When a California essay involves a question of cross-claims between defendants, the examinee should analyze:

- A. Whether the cross-claim arises out of the same transaction or occurrence as the original claim
- B. Whether the cross-claiming party has paid all required filing fees for the cross-claim filing in full
- C. Whether the cross-claiming party has retained licensed California counsel for the action at trial
- D. Whether the cross-claiming party has been previously involved in similar prior cross-claims filed

8. A California essay involving the doctrine of the dying declaration as a hearsay exception requires:
- A. Conclusion that all dying declarations are automatically admissible without any analysis required
  - B. Analysis of whether the declarant believed death was imminent and the statement concerned the cause
  - C. Application of only the federal hearsay exception rules to the dying declaration analysis question
  - D. Conclusion that no dying declaration is admissible in California state court proceedings ever
9. When a California essay involves a question of the Establishment Clause and government religious displays, the examinee should apply:
- A. The strict scrutiny standard applied to all government religious involvement universally without exception
  - B. The rational basis standard applied to all government religious displays without further analysis required
  - C. The Sherbert v. Verner test for religious accommodation in all government activity contexts in California
  - D. The Lemon test or the historical practices framework as the current constitutional standard
10. A California essay involving the doctrine of resulting trusts requires analysis of:
- A. Whether the trust was registered with the California Probate Court at the time of creation
  - B. Whether the trustee has filed all required California state tax returns timely each year of trust
  - C. Whether the settlor's intent to retain a beneficial interest is implied from the transaction
  - D. Whether the trustee has been bonded by a California-licensed surety company for the trust assets
11. When a California essay involves a question of revocation of a will by physical act, the examinee should analyze:
- A. Whether the testator burned, torn, canceled, obliterated, or destroyed the will with revocatory intent
  - B. Whether the testator has filed all required California state tax returns timely each year of life

- C. Whether the testator has retained admitted California probate counsel for the matter at issue
- D. Whether the testator has been previously involved in any prior will revocation matters of record

12. A California essay involving a question of the duty of confidentiality requires analysis of:

- A. Whether the lawyer has held a California license for at least five years of active legal practice
- B. Whether the information relates to representation and is subject to recognized exceptions
- C. Whether the lawyer has been previously disciplined by the State Bar in any prior matter on record
- D. Whether the lawyer has retained licensed California counsel for the professional matter at issue

13. When a California essay involves a question of the doctrine of waste in life estates, the examinee should analyze:

- A. Whether the life tenant has paid all property taxes on the disputed property timely each year owned
- B. Whether the life tenant has retained counsel licensed in real estate matters in California currently
- C. Whether the life tenant has been previously sued in any prior life estate matters of record at trial
- D. Whether the life tenant's conduct constitutes voluntary, permissive, or ameliorative waste

14. A California essay involving the question of separate property income earned during marriage requires analysis of:

- A. Whether the spouse has filed all California state income tax returns timely each year of marriage
- B. Whether the spouse has retained licensed California counsel for any prior community property matter
- C. Whether the spouse has been previously involved in any prior community property disputes of record
- D. Whether the income remains separate or has been transmuted or commingled with community property

15. When a California essay involves a question of the Contract Clause, the examinee should analyze:

- A. Whether the plaintiff has paid all federal court filing fees in the underlying federal action in full at start

- B. Whether the plaintiff has retained admitted federal counsel for the Contract Clause challenge filed
- C. Whether the state law substantially impairs a contractual relationship and serves a legitimate purpose
- D. Whether the plaintiff has filed parallel state actions before bringing the federal Contract Clause claim

16. A California essay involving a question of the original document rule (best evidence) requires:

- A. Conclusion that only the original document is ever admissible at trial proceedings without exception
- B. Analysis of whether the original is required and whether a duplicate or other exception applies
- C. Conclusion that any duplicate document is admissible regardless of authentication or required showing
- D. Application of only the federal rules without California Evidence Code distinctions on best evidence

17. When a California essay involves a question of double jeopardy and dual sovereignty, the examinee should analyze:

- A. Whether the prior prosecution was conducted in a California court of competent jurisdiction at filing
- B. Whether the defendant has retained admitted criminal defense counsel for the second prosecution
- C. Whether the second prosecution has been filed within thirty days of the conclusion of the first one
- D. Whether the prior and subsequent prosecutions were brought by separate sovereigns

18. A California essay involving a question of a corporation's separate legal existence requires analysis of:

- A. Whether the corporation is treated as a separate legal entity from its shareholders for liability purposes
- B. Whether the corporation has been registered with the California Secretary of State's office on time
- C. Whether the corporation has filed all annual reports with the Secretary of State currently up to date
- D. Whether the corporation has retained licensed California corporate counsel for any prior matters filed

19. When a California essay involves a question of the doctrine of forum selection clauses, the examinee should analyze:

- A. Whether the parties have paid all required filing fees in any prior actions in the selected forum
- B. Whether the clause is enforceable and the chosen forum is reasonable under California law
- C. Whether the parties have retained licensed counsel admitted in the chosen forum's jurisdiction
- D. Whether the parties have filed parallel actions in any forums other than the selected forum

20. A California essay involving a question of the doctrine of unclean hands requires analysis of:

- A. Whether the plaintiff has paid all filing fees in the equitable action up to the present date in full
- B. Whether the plaintiff has retained licensed California equitable remedies counsel for the action
- C. Whether the plaintiff's conduct related to the matter is inequitable and bars equitable relief
- D. Whether the plaintiff has filed parallel actions in any other state jurisdictions concurrently filed

21. When a California essay involves a question of premises liability and the classification of entrants, the examinee should:

- A. Apply only the trespasser duty of care to all entrants regardless of classification at common law
- B. Apply only the invitee duty of care to all entrants regardless of classification at common law
- C. Apply California's traditional invitee-licensee-trespasser categories without any modification
- D. Apply California's unified reasonable care standard under Rowland v. Christian considering factors

22. A California essay involving a question of the doctrine of ademption by satisfaction requires analysis of:

- A. Whether the gift to the beneficiary was made within thirty days of the testator's death timely
- B. Whether the beneficiary has been previously involved in any prior probate matters of record at trial
- C. Whether the testator made an inter vivos transfer intended to satisfy a testamentary gift
- D. Whether the beneficiary has retained admitted California probate counsel for the matter at trial

23. When a California essay involves a question of a permanent injunction, the examinee should analyze:

- A. Success on the merits, irreparable injury, balance of hardships, and the public interest factors
- B. Whether the moving party has paid all required filing fees in the underlying action timely filed
- C. Whether the moving party has retained counsel licensed in equitable remedies in California currently
- D. Whether the moving party has filed parallel injunctive actions in any other forums of record at trial

24. A California essay involving a question of contract modification under the UCC requires analysis of:

- A. Whether the parties signed the modification in front of a California licensed notary public at signing
- B. Whether the contract was reviewed by an attorney before the modification was signed timely at issue
- C. Whether the parties had transacted business together in any prior modification matters before now
- D. Whether the modification was made in good faith and whether the Statute of Frauds applies

25. When a California essay involves a question of the Privileges and Immunities Clause of Article IV, the examinee should analyze:

- A. Whether the plaintiff has paid all federal court filing fees in the underlying federal action filed at trial
- B. Whether the state law discriminates against out-of-state residents on a fundamental right
- C. Whether the plaintiff has retained admitted federal counsel for the Privileges and Immunities claim
- D. Whether the plaintiff has filed parallel state actions before bringing the federal claim of record

26. A California essay involving a question of the doctrine of a spendthrift trust requires analysis of:

- A. Whether the trustee has filed all required California state tax returns timely each year of the trust
- B. Whether the trustee has retained licensed California trust counsel for any prior trust matters of record
- C. Whether the trust contains a spendthrift provision restricting voluntary and involuntary transfers
- D. Whether the trustee has been bonded by a California-licensed surety company for the trust assets

27. When a California essay involves a question of the deed of trust versus mortgage distinction, the examinee should analyze:

- A. Whether the security instrument is a deed of trust permitting nonjudicial foreclosure or a mortgage
- B. Whether the property is located within a California incorporated city or town at the time of issue
- C. Whether the lender has been previously involved in any prior similar foreclosure matters filed at trial
- D. Whether the lender holds a current California-issued license to engage in lending in the state currently

28. A California essay involving a question of larceny and embezzlement requires analysis of:

- A. Whether the defendant has prior convictions for any property crimes on record in California state currently
- B. Whether the defendant has been previously charged with similar offenses in any prior actions at trial
- C. Whether the defendant has retained admitted criminal defense counsel for the action at trial currently
- D. Whether the defendant took the property by trespassory taking or while in lawful possession

29. When a California essay involves a question of the doctrine of judicial estoppel, the examinee should analyze:

- A. Whether the party has paid all costs of the prior judicial proceeding involved in full at the start
- B. Whether the party is asserting a position inconsistent with one taken in earlier proceedings
- C. Whether the party has retained licensed counsel admitted in California for the current matter at trial
- D. Whether the prior proceeding was tried in a California state court of competent jurisdiction at start

30. A California essay involving a question of the doctrine of standing in California state court requires:

- A. Conclusion that all parties have standing as long as they have paid filing fees in the action timely
- B. Application of only the federal Article III standing requirements without any California modification
- C. Analysis of whether the plaintiff has a beneficial interest in the subject matter of the litigation
- D. Conclusion that no standing analysis is required for California state court actions ever filed at trial

31. When a California essay involves a question of the freedom of association under the First Amendment, the examinee should analyze:

- A. Whether the plaintiff has paid all federal court filing fees in the underlying federal court action in full
- B. Whether the regulation burdens expressive or intimate association protected by the First Amendment
- C. Whether the plaintiff has retained admitted federal counsel for the freedom of association claim filed
- D. Whether the plaintiff has filed parallel state actions before bringing the federal claim of record at trial

32. A California essay involving a question of the doctrine of trespass to chattels requires analysis of:

- A. Whether the defendant intentionally interfered with the plaintiff's possession of personal property
- B. Whether the plaintiff has paid any prior tort judgments in similar trespass to chattels matters filed
- C. Whether the plaintiff has retained licensed California tort counsel for the action at trial currently
- D. Whether the plaintiff has been previously involved in any prior trespass to chattels matters filed at trial

33. When a California essay involves a question of will execution by a testator who cannot sign their own name, the examinee should analyze:

- A. Whether the testator has filed any prior wills with the probate court at the time of execution timely
- B. Whether the testator has retained admitted California probate counsel for the will execution at issue
- C. Whether the testator has been previously involved in any prior will execution matters of record at trial
- D. Whether the testator directed another person to sign on the testator's behalf in the testator's presence

34. A California essay involving a question of the equitable doctrine of reformation requires analysis of:

- A. Whether the plaintiff has paid all filing fees in the equitable action up to the present date timely filed
- B. Whether the plaintiff has retained licensed California equitable counsel for the action at issue at trial
- C. Whether the writing fails to express the parties' true agreement due to mutual mistake or fraud
- D. Whether the plaintiff has filed parallel actions in any other forums of record concurrently filed at trial

35. When a California essay involves a question of the rule against restraints on alienation, the examinee should analyze:

- A. Whether the property has been recorded with the county recorder's office timely at conveyance in full
- B. Whether the restraint is reasonable in scope, duration, and purpose under California property law
- C. Whether the property has been previously subject to similar restraints in any prior conveyances filed
- D. Whether the parties to the original conveyance were related by family or marital ties closely at signing

36. A California essay involving a question of compulsory counterclaims requires analysis of:

- A. Whether the counterclaim arises out of the transaction or occurrence that is the subject of the action
- B. Whether the counterclaiming party has paid all required filing fees in the underlying action filed timely
- C. Whether the counterclaiming party has retained licensed California counsel for the action at trial in court
- D. Whether the counterclaiming party has been previously involved in any prior counterclaim matters at trial

37. When a California essay involves a question of liquidated damages, the examinee should analyze:

- A. Whether the parties signed the contract in front of a California licensed notary public at the signing
- B. Whether the contract was reviewed by an attorney before the parties signed it timely at issue at trial
- C. Whether the parties had transacted business together in any prior similar contract matters before now
- D. Whether the liquidated damages amount was a reasonable forecast of actual damages at contract formation

38. A California essay involving a question of the Takings Clause and inverse condemnation requires:

- A. Conclusion that all government action involving property is a per se taking requiring compensation
- B. Analysis of whether the government has effectively taken property without formal condemnation
- C. Application of only the California Constitution's takings clause without any federal analysis applied

D. Conclusion that no inverse condemnation claim exists without express statutory authorization in state

39. When a California essay involves a question of the doctrine of plea bargaining, the examinee should analyze:

- A. Whether the plea was knowing, intelligent, and voluntary, with constitutional protections satisfied
- B. Whether the defendant has prior convictions for any felonies on record in California state currently
- C. Whether the defendant has retained admitted criminal defense counsel for the plea negotiation at issue
- D. Whether the prosecution has filed all required discovery within the period set by the court of record

40. A California essay involving a question of the modification of a trust by court order requires analysis of:

- A. Whether the trustee has filed all required California state tax returns timely each year of the trust at issue
- B. Whether the trustee has retained licensed California trust counsel for the modification petition at trial
- C. Whether changed circumstances would defeat or substantially impair the trust's purposes
- D. Whether the trustee has been bonded by a California-licensed surety company for the trust assets at start

41. When a California essay involves a question of expert witness qualifications, the examinee should analyze:

- A. Whether the expert has been previously qualified in any prior cases before any court of record at trial
- B. Whether the expert has retained admitted counsel for the proceeding at issue in the matter at trial
- C. Whether the expert possesses the knowledge, skill, experience, training, or education to assist
- D. Whether the expert has filed all required California state tax returns timely each year of practice in state

42. A California essay involving a question of the rights of pretermitted children under the Probate Code requires analysis of:

- A. Whether the child was unintentionally omitted because the testator was unaware of the child's existence
- B. Whether the child has retained admitted California probate counsel for the action at issue at trial in court
- C. Whether the child has been previously involved in any prior probate matters of record in the state at trial
- D. Whether the child has filed all required California state tax returns timely each year of life in California

43. When a California essay involves a question of the implied warranty of habitability in new residential construction, the examinee should analyze:

- A. Whether the builder-seller breached the warranty that the dwelling is fit for human habitation
- B. Whether the buyer has paid all property taxes on the disputed property timely each year of ownership
- C. Whether the buyer has retained counsel licensed in real estate matters in California currently practicing
- D. Whether the buyer has been previously involved in any prior similar habitability matters of record at trial

44. A California essay involving a question of the Fifteenth Amendment voting rights requires analysis of:

- A. Whether the plaintiff has paid all federal court filing fees in the underlying voting rights action in full
- B. Whether the plaintiff has retained admitted federal counsel for the voting rights claim being filed at trial
- C. Whether the plaintiff has filed parallel state actions before bringing the federal voting rights claim filed
- D. Whether the law denies or abridges the right to vote on account of race, color, or previous servitude

45. When a California essay involves a question of supplemental jurisdiction in federal court, the examinee should analyze:

- A. Whether the parties have paid all required filing fees in the underlying federal court action timely filed
- B. Whether the state-law claim is part of the same case or controversy under 28 U.S.C. §1367

C. Whether the parties have retained licensed federal counsel admitted in the federal court of record at trial

D. Whether the parties have filed parallel state actions in any other state jurisdictions concurrently filed at trial

46. A California essay involving a question of the equitable doctrine of subrogation requires analysis of:

A. Whether the subrogee has paid all filing fees in the equitable action up to the present date timely in full

B. Whether the subrogee has retained licensed California equitable remedies counsel for the action filed at trial

C. Whether the subrogee paid a debt for which the subrogor was primarily liable and equity requires it

D. Whether the subrogee has filed parallel actions in any other state forums of record concurrently filed at trial

47. When a California essay involves a question of pure economic loss in negligence, the examinee should analyze:

A. Whether the plaintiff has retained licensed California tort counsel for the action at issue at trial currently

B. Whether the plaintiff has been previously involved in any prior economic loss tort matters of record at trial

C. Whether the plaintiff has paid any prior tort judgments in similar economic loss tort actions on record at trial

D. Whether a special relationship or other doctrinal exception permits recovery for pure economic loss

48. A California essay involving a question of the slayer rule in California probate requires analysis of:

A. Whether the killer has retained admitted California probate counsel for the action at trial timely in full

B. Whether the alleged killer feloniously and intentionally caused the death of the decedent

C. Whether the killer has been previously involved in any prior probate matters in California state at trial

D. Whether the killer has filed all required California state tax returns timely each year of life in California

49. When a California essay involves a question of the doctrine of accomplice liability, the examinee should analyze:

- A. Whether the accomplice aided, abetted, or encouraged the principal with the required mental state
- B. Whether the accomplice has prior convictions for any felonies on record in California state currently at trial
- C. Whether the accomplice has retained admitted criminal defense counsel for the action at trial currently in court
- D. Whether the accomplice has been previously involved in any prior accomplice liability matters of record at trial

50. A California essay involving a question of the doctrine of a quitclaim deed requires analysis of:

- A. Whether the grantor has paid all property taxes on the disputed property timely each year of ownership
- B. Whether the grantor has retained counsel licensed in real estate matters in California currently practicing
- C. Whether the quitclaim deed conveys whatever interest the grantor has, without warranties
- D. Whether the grantor has been previously involved in any prior similar quitclaim matters of record at trial

## **PRACTICE EXAM 14: CALIFORNIA ESSAY EXAM SIMULATION – ANSWER KEY**

**1. C** — Headings organize the answer by issue or party so the grader can navigate the analysis efficiently. Bar graders work under tight time constraints and award points by locating each issue, so visible separation through headings tracks the grading rubric directly. Avoiding headings, using overly emphatic formatting, or pre-listing rules all reduce the grader's ability to award credit.

**2. D** — The omitted spouse doctrine grants an intestate share when the spouse married the testator after the will was executed and was not provided for in the will. California Probate Code §§21610–21612 codify the rule, with limited exceptions for intentional omission, provision outside the will, or waiver. The post-execution marriage and lack of provision are the key elements.

**3. A** — Contract integration turns on whether the writing was intended by the parties as a final and complete expression of their agreement. Full integration excludes contradictory and supplementary

extrinsic evidence; partial integration excludes only contradictory evidence. The integration analysis precedes application of the parol evidence rule.

**4. B** — Real estate Statute of Frauds requires a writing identifying the parties, property, price, and signed by the party to be charged. California Civil Code §1624(a)(3) imposes the writing requirement for contracts to transfer real property, and the writing must contain the essential terms. Without these elements, the contract is unenforceable absent a recognized exception such as part performance.

**5. D** — Strict liability for animals depends on whether the animal is wild or domestic and whether the owner knew of dangerous propensities. Owners of wild animals face strict liability for harm caused by the animal's dangerous propensities; owners of domestic animals face strict liability only when they knew or should have known of specific dangerous propensities. The classification controls the analysis.

**6. C** — Voluntary manslaughter requires a killing in the heat of passion upon adequate provocation. California Penal Code §192(a) defines voluntary manslaughter as an unlawful killing in sudden quarrel or heat of passion arising from adequate provocation that would have caused a reasonable person to act rashly, negating the malice required for murder.

**7. A** — Cross-claims between co-parties must arise out of the same transaction or occurrence as the original action. California CCP §428.10 and FRCP 13(g) impose the transactional-relationship requirement. Cross-claims that lack this nexus must be brought as separate actions.

**8. B** — A dying declaration requires the declarant to have believed death was imminent and the statement to concern the cause or circumstances of the impending death. FRE 804(b)(2) and California Evidence Code §1242 codify these elements. Both belief and subject-matter requirements must be satisfied for admissibility.

**9. D** — Establishment Clause analysis applies the Lemon test or the historical practices framework. *Lemon v. Kurtzman* established the three-prong test (secular purpose, primary effect, no excessive entanglement); *Kennedy v. Bremerton* (2022) introduced a historical practices framework. The applicable framework must be identified and applied.

**10. C** — A resulting trust arises when the settlor's intent to retain a beneficial interest is implied from the transaction. The doctrine applies when property is transferred under circumstances suggesting the transferor did not intend to part with the beneficial interest, requiring the transferee to hold the property in trust for the transferor.

**11. A** — Will revocation by physical act requires the testator to burn, tear, cancel, obliterate, or destroy the will with concurrent revocatory intent. California Probate Code §6120(b) requires both the physical act and the testator's intent to revoke. Either element alone is insufficient to effect revocation.

**12. B** — The duty of confidentiality covers information relating to representation, subject to recognized exceptions. ABA Model Rule 1.6 and California Rule 1.6 protect information learned during representation, with narrow exceptions for prevention of substantial harm, defense to charges, compliance with law, and other recognized categories.

- 13. D** — Waste analysis classifies the life tenant's conduct as voluntary, permissive, or ameliorative. Voluntary waste is affirmative damage to the estate; permissive waste is failure to maintain (taxes, repairs); ameliorative waste is unauthorized improvement that changes the character of the estate. Each carries distinct remedies for the remainderman.
- 14. D** — Separate property income during marriage may remain separate, be transmuted, or be commingled with community property. California Family Code §770(a)(3) characterizes rents, issues, and profits of separate property as separate, but commingling with community funds or written transmutation under §852 can convert character. Tracing controls when commingled.
- 15. C** — Contract Clause analysis asks whether the state law substantially impairs a contractual relationship and serves a legitimate purpose by reasonable means. *Energy Reserves Group v. Kansas Power & Light* established the standard: substantial impairment plus significant and legitimate public purpose plus reasonable and appropriate means. Each element must be addressed.
- 16. B** — The best evidence rule requires the original document or a recognized exception. FRE 1002 and California Evidence Code §1521 require the original to prove its contents, with exceptions for unavailability through no fault, duplicates, voluminous summaries, public records, and other recognized circumstances.
- 17. D** — Dual sovereignty permits separate prosecutions by separate sovereigns for the same conduct. *Heath v. Alabama* confirms that federal and state governments (and different states) are separate sovereigns, so a defendant may be prosecuted by both for the same act without violating double jeopardy.
- 18. A** — A corporation is treated as a separate legal entity from its shareholders for liability purposes. The separate-entity doctrine is the foundational principle of corporate law, shielding shareholders from personal liability for corporate obligations absent veil-piercing for fraud, alter ego, or undercapitalization.
- 19. B** — Forum selection clauses are analyzed for enforceability and reasonableness of the chosen forum. California courts enforce such clauses under *Smith, Valentino & Smith v. Superior Court* unless enforcement would be unreasonable, with the burden on the party seeking to avoid enforcement. Procedural fairness and reasonableness control.
- 20. C** — Unclean hands bars equitable relief when the plaintiff's conduct related to the matter is inequitable. The maxim "he who comes into equity must come with clean hands" requires the plaintiff's misconduct to directly relate to the transaction at issue. The doctrine does not apply to misconduct unrelated to the dispute.
- 21. D** — California premises liability applies the *Rowland v. Christian* unified reasonable care standard considering multiple factors. *Rowland* abolished the rigid common-law categories of trespasser, licensee, and invitee, applying a single reasonableness analysis considering foreseeability, certainty of injury, closeness of connection, moral blame, policy, burden, and insurance availability.
- 22. C** — Ademption by satisfaction requires the testator's inter vivos transfer intended to satisfy the testamentary gift. California Probate Code §21135 codifies the doctrine, requiring the testator's intent that

the lifetime transfer satisfy the will provision, generally shown by writing or contemporaneous evidence. Intent is the controlling element.

**23. A** — Permanent injunction analysis applies the four-factor test of success on the merits, irreparable injury, balance of hardships, and the public interest. *Winter v. Natural Resources Defense Council and California equivalents* weigh all four factors together. The moving party bears the burden on each.

**24. D** — UCC contract modification requires good faith and analysis of whether the Statute of Frauds applies. UCC §2-209 permits modification without consideration but requires good faith under §1-304; the Statute of Frauds applies when the modified contract as a whole falls within UCC §2-201 (\$500+ goods).

**25. B** — The Article IV Privileges and Immunities Clause requires the state law to discriminate against out-of-state residents on a matter of fundamental concern. The clause prohibits discrimination on fundamental rights such as employment, commerce, and access to civil justice, subject to substantial-reason justification under *Toomer v. Witsell*.

**26. C** — A spendthrift trust requires a provision restricting voluntary and involuntary transfers of the beneficiary's interest. California Probate Code §§15300–15309 enforce spendthrift provisions that protect trust interests from both creditor attachment and the beneficiary's own alienation. The provision must restrict both types of transfers to be effective.

**27. A** — A deed of trust permits nonjudicial foreclosure via trustee's sale; a mortgage requires judicial foreclosure. California Civil Code §2924 governs the nonjudicial process under deeds of trust, which dominate California practice. Identifying the security instrument controls the available foreclosure procedure.

**28. D** — Larceny and embezzlement are distinguished by whether the defendant took the property by trespassory taking or while in lawful possession. Larceny requires trespassory taking with intent to permanently deprive; embezzlement requires fraudulent conversion by one already in lawful possession. The original mode of acquisition determines the offense.

**29. B** — Judicial estoppel bars a party from asserting a position inconsistent with one taken in earlier proceedings. The doctrine protects judicial integrity by preventing parties from manipulating the courts through contradictory positions, typically requiring the prior position to have been successfully maintained.

**30. C** — California state court standing requires the plaintiff to have a beneficial interest in the subject matter of the litigation. California's standing requirements are generally more lenient than federal Article III, with broader public interest standing recognized in some contexts. The beneficial interest test is the threshold inquiry.

**31. B** — Freedom of association analysis asks whether the regulation burdens expressive or intimate association protected by the First Amendment. Expressive association is tied to speech, assembly, religion, and petition; intimate association protects close family and personal relationships. The type of association burdened controls the level of scrutiny.

**32. A** — Trespass to chattels requires intentional interference with the plaintiff's possession of personal property. The tort requires intent to do the act causing interference (not necessarily intent to harm), and the interference must be significant enough to support recovery, typically requiring actual damage, dispossession, or loss of use.

**33. D** — When a testator cannot sign their own name, the testator must direct another person to sign on the testator's behalf in the testator's presence. California Probate Code §6110(b) permits this method, preserving the testator's intent to execute while accommodating physical incapacity. The direction and presence requirements are essential.

**34. C** — Reformation applies when the writing fails to express the parties' true agreement due to mutual mistake or fraud. The equitable remedy reforms the writing to conform to the actual agreement, addressing scrivener's errors, mutual mistakes about expression, and fraudulent concealment of the writing's true contents.

**35. B** — Restraints on alienation must be reasonable in scope, duration, and purpose to be enforceable. California Civil Code §711 declares unreasonable restraints void; the reasonableness analysis considers the restraint's scope (full vs. partial), duration (permanent vs. temporary), and purpose (legitimate business reason). Reasonableness is the controlling test.

**36. A** — Compulsory counterclaims must arise out of the same transaction or occurrence as the original action. FRCP 13(a) and California CCP §426.30 require such counterclaims to be raised in the pending action or be barred from future litigation. The transactional-relationship test triggers compulsory status.

**37. D** — Liquidated damages must be a reasonable forecast of actual damages assessed at the time of contract formation. California Civil Code §1671 enforces liquidated damages provisions if reasonable under the circumstances at formation. Unreasonable provisions are deemed unenforceable penalties.

**38. B** — Inverse condemnation analysis asks whether the government has effectively taken property without formal condemnation proceedings. The doctrine permits a property owner to sue the government for compensation when regulation, physical invasion, or other interference effectively takes property without exercise of formal eminent domain authority.

**39. A** — A valid plea bargain requires the plea to be knowing, intelligent, and voluntary with constitutional protections satisfied. *Boykin v. Alabama* requires the defendant to understand the rights waived (jury trial, confrontation, self-incrimination), the charges, and the consequences, and to enter the plea voluntarily without coercion.

**40. C** — Trust modification by court order requires changed circumstances that would defeat or substantially impair the trust's purposes. California Probate Code §15409 permits judicial modification under the equitable deviation doctrine when changed circumstances were not anticipated by the settlor and would impair the trust's purposes.

**41. C** — Expert witness qualification requires the witness to possess the knowledge, skill, experience, training, or education to assist the trier of fact. FRE 702 and California Evidence Code §720 use this

disjunctive standard, with the proponent showing one or more of these qualifications. The assistance-to-trier element is the gateway.

**42. A** — Pretermitted children analysis turns on whether the child was unintentionally omitted because the testator was unaware of the child's existence at execution. California Probate Code §§21620–21623 protect children born or adopted after the will or mistakenly omitted because of unawareness, but provide no remedy for intentional omission.

**43. A** — The implied warranty of habitability in new residential construction requires the builder-seller to deliver a dwelling fit for human habitation. *Pollard v. Saxe & Yolles Development Co.* recognized this warranty in California, holding builder-sellers liable when construction defects render the home unfit for habitation. The warranty cannot be readily disclaimed in residential contexts.

**44. D** — The Fifteenth Amendment prohibits laws that deny or abridge the right to vote on account of race, color, or previous condition of servitude. The amendment is self-executing against discriminatory laws on these grounds, with the Voting Rights Act providing additional statutory enforcement and preclearance mechanisms.

**45. B** — Supplemental jurisdiction extends federal jurisdiction to state-law claims that are part of the same case or controversy under 28 U.S.C. §1367. The standard codifies the *United Mine Workers v. Gibbs* "common nucleus of operative fact" test. The court may decline supplemental jurisdiction in specified circumstances.

**46. C** — Equitable subrogation requires the subrogee to have paid a debt for which the subrogor was primarily liable, and equity requires the substitution. The doctrine prevents unjust enrichment by allowing the payor to step into the creditor's shoes with the same rights against the primary debtor. Volunteer payments do not qualify.

**47. D** — Pure economic loss in negligence requires a special relationship or other doctrinal exception to permit recovery. The economic loss rule generally bars recovery in negligence for purely economic losses absent physical injury or property damage; *J'Aire Corp. v. Gregory* recognized exceptions for special relationships imposing duties beyond the general economic loss rule.

**48. B** — The slayer rule disqualifies anyone who feloniously and intentionally caused the death of the decedent from taking through the estate. California Probate Code §§250–258 prevent the slayer from receiving under the will, by intestacy, by trust, or by other death-related transfer. Both the felonious and intentional elements must be established.

**49. A** — Accomplice liability requires the accomplice to have aided, abetted, or encouraged the principal with the required mental state. California Penal Code §31 makes accomplices liable as principals when they aid, abet, or encourage with knowledge of the principal's criminal purpose and intent to promote or facilitate the offense.

**50. C** — A quitclaim deed conveys whatever interest the grantor has, without warranties as to title. The deed transfers any present interest the grantor possesses (which may be none) without representing or

warranting the existence or quality of the interest. This contrasts with grant and warranty deeds that contain implied or express covenants of title.