

PRACTICE EXAM 15 — MBE SIMULATION (200 QUESTIONS)

1. A buyer entered into a written contract to purchase the seller's antique grandfather clock for \$8,000. The contract specified delivery within two weeks. Before the delivery date, the buyer changed his mind and refused to accept the clock. The seller resold the clock to another buyer for \$7,200, the prevailing market price. The seller sues the original buyer for damages. What is the seller entitled to recover?

- A. \$8,000 representing the full contract price the buyer agreed to pay
- B. \$800 representing the difference between the contract price and the resale price
- C. \$7,200 representing the actual amount the seller received from resale
- D. Nothing, because the seller successfully mitigated by reselling the clock

2. A plaintiff sued a defendant in federal court for patent infringement. Both parties are citizens of California, and the patent claim arises under federal law. The defendant moves to dismiss for lack of subject matter jurisdiction, arguing that diversity is not present. How should the court rule?

- A. Grant the motion because complete diversity is required for all federal claims
- B. Grant the motion because both parties reside in the same state
- C. Deny the motion because the amount in controversy exceeds \$75,000
- D. Deny the motion because the court has federal question jurisdiction over patent claims

3. A defendant was charged with felony murder after participating in a bank robbery during which his accomplice shot and killed a security guard. The defendant was outside the bank serving as a lookout when the shooting occurred. He argues that he should not be liable for the murder because he was not present in the bank. How should the court rule?

- A. The defendant is liable for felony murder because the death occurred during the commission of the underlying felony

- B. The defendant is not liable because he was not physically present during the killing
- C. The defendant is liable only for the underlying robbery, not for the killing
- D. The defendant is not liable because his accomplice acted independently

4. A homeowner conveyed Blackacre "to my daughter and her heirs, but if the property is ever used for commercial purposes, then to my son and his heirs." Two years later, the daughter opened a small bakery on the property. What is the legal effect of the daughter's commercial use?

- A. The daughter retains the property because the restriction is void as against public policy
- B. The daughter retains the property until the son takes affirmative legal action
- C. The property automatically vests in the son upon the commercial use
- D. The conveyance violates the Rule Against Perpetuities and is void

5. A pedestrian was struck by a delivery truck owned by an employer and driven by an employee who was making deliveries on his assigned route. The employee had stopped briefly to purchase coffee for himself and was driving back to his route when the accident occurred. The pedestrian sues the employer under respondeat superior. What is the most likely result?

- A. The employer is liable because the employee was returning to his work route at the time of the accident
- B. The employer is not liable because the coffee stop was a personal frolic
- C. The employer is liable only if the employee was authorized to make coffee stops
- D. The employer is not liable because the employee deviated from his assigned duties

6. A defendant was charged with armed robbery. At the police station, officers gave him Miranda warnings. The defendant remained silent for two hours, then voluntarily began answering questions and made incriminating statements. The defendant moves to suppress the statements, arguing that his initial silence invoked his right to remain silent. How should the court rule?

- A. Suppress the statements because the defendant invoked his right to silence by remaining quiet
- B. Admit the statements because Miranda warnings remained in effect throughout questioning
- C. Suppress the statements because two hours is insufficient time to waive the right

D. Admit the statements because the defendant did not unambiguously invoke his right to silence

7. A state passed a statute requiring all out-of-state corporations doing business in the state to pay a \$5,000 annual licensing fee. In-state corporations were required to pay only \$500 for the same license. An out-of-state corporation challenged the statute under the Commerce Clause. What is the most likely result?

A. The statute is constitutional because states may regulate the activities of foreign corporations

B. The statute is unconstitutional because it facially discriminates against out-of-state commerce

C. The statute is constitutional because the higher fee compensates for state administrative costs

D. The statute is unconstitutional because it violates the Tenth Amendment

8. A plaintiff filed a federal court action against a defendant alleging breach of contract. After the plaintiff served the complaint, the defendant filed a motion to dismiss for failure to state a claim. The court denied the motion. The defendant then filed an answer and a counterclaim against the plaintiff. May the plaintiff move to dismiss the counterclaim?

A. No, because counterclaims are not subject to motions to dismiss

B. No, because the defendant's right to assert a counterclaim is absolute

C. Yes, the plaintiff may move to dismiss the counterclaim for failure to state a claim

D. Yes, but only if the counterclaim arises from a different transaction

9. A defendant entered the victim's home through an unlocked window at 2:00 a.m. with intent to steal jewelry. While inside, he heard the victim awakening and fled before taking anything. The defendant was charged with burglary, which under state law requires "breaking and entering a dwelling at night with intent to commit a felony therein." What is the defendant's strongest defense?

A. He did not actually steal anything from the dwelling before leaving

B. Intent to steal jewelry does not constitute intent to commit a felony

C. The victim was home at the time of the entry

D. Entering through an unlocked window does not constitute "breaking"

10. A homeowner contracted with a landscaper to install a new garden for \$5,000. The landscaper purchased plants and supplies and began the work. After completing about 30% of the project, the landscaper informed the homeowner that he was unable to continue due to a family emergency. The homeowner hired a substitute landscaper to complete the work for \$4,500. The original landscaper sues for the value of his completed work. What is the most likely result?

- A. The original landscaper can recover the reasonable value of his completed work minus damages
- B. The original landscaper cannot recover because he breached the contract
- C. The original landscaper can recover the full contract price of \$5,000
- D. The original landscaper can recover only the cost of materials used

11. A defendant was charged with vehicular manslaughter after he drove through a red light and killed a pedestrian. At trial, the prosecution sought to introduce evidence that the defendant had been issued three traffic citations for running red lights in the past two years. The defense objects. How should the court rule?

- A. Admit the evidence to show the defendant's character for traffic violations
- B. Admit the evidence to show the defendant's habit of running red lights
- C. Exclude the evidence as improper character evidence under Rule 404
- D. Exclude the evidence because the citations are too remote in time

12. A landlord rented a commercial space to a tenant for a five-year term. The lease prohibited assignment without the landlord's written consent. After three years, the tenant assigned the lease to a third party without seeking the landlord's consent. The landlord continued to accept rent from the assignee for six months before objecting. What is the landlord's strongest argument?

- A. The landlord's acceptance of rent did not waive the prohibition on assignment
- B. The landlord waived the right to object by accepting rent from the assignee
- C. The assignee has acquired all rights and obligations under the lease
- D. The original tenant remains primarily liable on the lease obligations

13. A defendant was arrested for armed robbery and held in the police station. Without giving Miranda warnings, officers placed an undercover agent in the defendant's cell. The agent posed as another inmate and engaged the defendant in casual conversation. The defendant made incriminating statements to the agent. The defendant moves to suppress the statements. How should the court rule?

- A. Admit the statements because the defendant was not subject to custodial interrogation by a known police officer
- B. Suppress the statements because Miranda warnings were required in the custodial setting
- C. Suppress the statements because the agent's deception violated due process
- D. Admit the statements because the defendant voluntarily made them to a fellow inmate

14. A federal statute prohibited the discharge of any pollutant into "navigable waters." A landowner was charged with violating the statute by allowing wastewater to flow from his property into a small stream. The stream eventually connects to a major river. The landowner challenges the federal regulation under the Tenth Amendment. What is the most likely result?

- A. The statute is unconstitutional because it intrudes on traditional state authority over water
- B. The statute is constitutional because all surface water is federally regulated
- C. The statute is unconstitutional because the small stream is not navigable
- D. The statute is constitutional because Congress may regulate waters that affect interstate commerce

15. A plaintiff filed a complaint in federal court alleging two claims: a federal civil rights claim and a state-law battery claim, both arising from the same incident. Before trial, the federal claim was dismissed for failure to state a claim. The defendant moves to dismiss the state-law claim for lack of jurisdiction. How should the court rule?

- A. Grant the motion because the federal claim is no longer pending
- B. Deny the motion because federal courts retain jurisdiction over related state claims
- C. The court may exercise discretion to dismiss the state claim without prejudice
- D. Grant the motion because state courts have exclusive jurisdiction over battery claims

16. A defendant was charged with the murder of his business partner. At trial, the prosecution sought to introduce evidence that the defendant had taken out a life insurance policy on his partner two months before the murder. The defense objects on relevance grounds. How should the court rule?

- A. Exclude the evidence because life insurance policies are commonly purchased
- B. Admit the evidence as relevant to show the defendant's motive
- C. Exclude the evidence as more prejudicial than probative
- D. Admit the evidence to show the defendant's character for greed

17. A homeowner conveyed a parcel of property to his son with a deed containing the following language: "to my son for so long as he shall continue to operate the family farm." The son operated the farm for five years, then ceased operations and converted the property to a residential subdivision. What interest, if any, does the homeowner retain?

- A. A reversion that becomes possessory when the son ceases farming operations
- B. A power of termination that must be affirmatively exercised
- C. An executory interest that automatically vests upon the violation
- D. A possibility of reverter that automatically reverts the property to the homeowner

18. A driver was operating his car on a rural highway when he experienced sudden mechanical failure and lost control of the vehicle. The car struck a roadside utility pole, severely injuring a pedestrian who was walking nearby. The pedestrian sues the driver for negligence. The driver had purchased the car new and had it serviced regularly. What is the most likely result?

- A. The driver is not liable if the mechanical failure was sudden and unforeseeable
- B. The driver is liable under strict liability for operating a vehicle on public roads
- C. The driver is liable because owners are responsible for vehicle maintenance
- D. The driver is not liable because the pedestrian was outside the roadway

19. A buyer ordered 200 widgets from a seller at \$25 per widget. The contract specified delivery in 30 days. On the delivery date, the seller delivered 200 widgets but they were a slightly different model than

specified in the contract. The buyer immediately notified the seller of the non-conformity. What is the buyer's legal right under the UCC?

- A. The buyer must accept the delivery and pay the contract price
- B. The buyer must accept the delivery but may recover damages for the non-conformity
- C. The buyer may reject the entire delivery for failure to conform to the contract
- D. The buyer must allow the seller to cure the defect before rejecting

20. A state enacted a law prohibiting any person from publishing materials that "disparage the moral character" of state government officials. A newspaper publisher was charged with violating the statute after publishing an editorial critical of the governor's policies. The publisher challenges the statute on First Amendment grounds. What is the most likely result?

- A. The statute is constitutional because states may protect their officials from defamation
- B. The statute is unconstitutional because political criticism receives full First Amendment protection
- C. The statute is constitutional if applied only to provably false statements of fact
- D. The statute is unconstitutional only if it imposes criminal penalties on the publisher

21. A pedestrian was struck by a car while walking in a marked crosswalk. The driver had been distracted by his cell phone. The pedestrian suffered serious injuries and sued the driver for negligence. The driver argued that the pedestrian was wearing dark clothing at night and should have known to be more visible. The jurisdiction follows pure comparative negligence. What is the most likely result?

- A. The pedestrian may recover damages reduced by any percentage of her own fault
- B. The pedestrian is barred from recovery because she failed to wear visible clothing
- C. The driver is not liable because pedestrians must yield to vehicles
- D. The pedestrian can recover full damages only if the driver was speeding

22. A defendant was charged with theft of a wallet from a stranger's pocket. At trial, the prosecution called the victim, who testified that he felt someone bump into him on the subway and then noticed his wallet was missing. The prosecution sought to introduce a recording of a 911 call the victim made minutes later

in which he described the defendant's appearance. The defense objects on hearsay grounds. How should the court rule?

- A. Exclude the statement because the 911 call is testimonial in nature
- B. Admit the statement under the dying declaration exception
- C. Admit the statement as a present sense impression of the events
- D. Exclude the statement because the victim is available to testify

23. A landowner divided her property into two parcels and sold the back parcel to a buyer. The deed did not mention any access rights. The only way for the buyer to reach the public road was across the landowner's retained front parcel. The landowner refused to permit access. The buyer sues to establish an easement. What is the buyer's strongest legal theory?

- A. An easement by prescription based on years of open use
- B. An easement by estoppel based on the seller's representations
- C. An express easement omitted by clerical error from the deed
- D. An easement by necessity implied at the time of the conveyance

24. A defendant was driving home from work when his car was struck from behind by another vehicle. The defendant suffered a minor head injury. Later that evening, the defendant began experiencing severe headaches and went to the emergency room. Tests revealed a serious brain hemorrhage that doctors attributed to the accident. The defendant sued the other driver. What damages can he recover?

- A. Only damages for the immediate injuries sustained at the scene
- B. Damages for both the immediate and subsequently discovered injuries
- C. Only damages that were objectively foreseeable at the time of the accident
- D. Damages only if the brain hemorrhage developed within 24 hours

25. A homeowner sold her house to a buyer for \$300,000. After moving in, the buyer discovered that the basement had a serious moisture problem that caused mold growth. The seller had not disclosed this condition, although she knew about it. The buyer sues the seller for damages. What is the buyer's best theory of recovery?

- A. Breach of the implied warranty of habitability for residential property
- B. Mutual mistake of fact regarding the property's condition
- C. Fraudulent concealment of a material defect known to the seller
- D. Breach of the seller's contractual duty to deliver clear title

26. A defendant was arrested for drug possession. At the police station, officers gave him Miranda warnings. The defendant invoked his right to counsel and questioning ceased. Three hours later, after the defendant had been booked and placed in a cell, a different officer entered the cell and asked if he had changed his mind about talking. The defendant agreed to speak and made incriminating statements. He moves to suppress the statements. How should the court rule?

- A. Suppress the statements because the defendant's invocation of counsel barred further police-initiated questioning
- B. Admit the statements because the defendant voluntarily agreed to speak
- C. Suppress the statements because the defendant was still in custody at the time
- D. Admit the statements because the second officer was not aware of the prior invocation

27. A federal court is hearing a diversity action involving state-law claims of negligence. The plaintiff seeks to introduce hearsay evidence under a state evidentiary rule that permits such admission. The Federal Rules of Evidence would exclude the statement. Which rule should the federal court apply?

- A. The state evidentiary rule because state law governs in diversity cases
- B. The Federal Rules of Evidence because they are procedural
- C. The rule that is more favorable to the plaintiff's position
- D. The rule that is consistent with substantive state policy

28. A defendant was charged with conspiracy to distribute controlled substances. At trial, the prosecution sought to introduce statements made by an alleged co-conspirator who had subsequently been killed. The statements were made during the conspiracy and in furtherance of it. The defense objects on Confrontation Clause grounds. How should the court rule?

- A. Suppress the statements because the co-conspirator cannot be cross-examined

- B. Admit the statements because Confrontation Clause does not apply to deceased witnesses
- C. Suppress the statements because they were made out of the defendant's presence
- D. Admit the statements as non-testimonial statements of a co-conspirator

29. A plaintiff filed a federal court action against three defendants for breach of a joint contract. The plaintiff is a citizen of New York. Two defendants are citizens of Texas, and one is a citizen of New York. The plaintiff argues that the New York defendant is not necessary to the action. The defendants move to dismiss for lack of diversity jurisdiction. How should the court rule?

- A. Grant the motion because complete diversity is lacking
- B. Deny the motion because the New York defendant can be dropped from the action
- C. Grant the motion because federal courts cannot hear contract claims
- D. Deny the motion because two of the three defendants are diverse

30. A buyer entered into a contract with a seller for the sale of a unique vintage car for \$50,000. After signing the contract but before delivery, the seller refused to honor the agreement, claiming he had received a better offer. The buyer sued for specific performance. What is the most likely result?

- A. The court will deny specific performance because money damages are adequate
- B. The court will deny specific performance because the seller had a right to seek the best offer
- C. The court will grant specific performance because each vintage car is unique
- D. The court will deny specific performance because vintage cars are commonly available

31. A defendant was charged with first-degree murder. At trial, the prosecution sought to introduce a statement the defendant made to his cellmate while in jail. The cellmate was an informant working for the police, who had been directed to engage the defendant in conversation. The defendant moves to suppress the statements. The defendant had already been formally charged with the murder. How should the court rule?

- A. Admit the statements because the cellmate was not engaged in formal interrogation
- B. Suppress the statements because the defendant's Sixth Amendment right to counsel was violated

- C. Admit the statements because the defendant voluntarily spoke to a fellow inmate
- D. Suppress the statements because Miranda warnings were required

32. A landlord and tenant entered into a one-year residential lease. After six months, the tenant gave the landlord a 30-day written notice of termination and vacated the property. The lease did not contain any termination clause. The landlord did not seek to rerent the property and sued the tenant for the remaining six months' rent. What is the most likely result in a jurisdiction requiring mitigation of damages?

- A. The tenant is liable for the full six months of remaining rent
- B. The tenant is liable only if she failed to provide proper notice
- C. The tenant is liable only for damages incurred during the notice period
- D. The tenant is liable only for damages the landlord could not have avoided through reasonable mitigation

33. A federal statute prohibited the discrimination against any person on the basis of disability in any program receiving federal financial assistance. A state university that received federal funding refused to provide accommodations for a deaf student. The student sued the university. The university defends on the ground that the Eleventh Amendment bars the suit. What is the most likely result?

- A. The state university is liable because Congress validly abrogated state sovereign immunity
- B. The state university is immune from suit under the Eleventh Amendment
- C. The state university is liable only if it expressly waived sovereign immunity
- D. The state university is immune unless the discrimination was willful

34. A defendant was charged with sexual assault. At trial, the prosecution sought to introduce evidence that the defendant had been previously convicted of two sexual assaults that occurred more than ten years earlier. The defense objects. Under the Federal Rules of Evidence, how should the court rule?

- A. Exclude the evidence because the prior offenses are too remote in time
- B. Exclude the evidence as improper character evidence under Rule 404
- C. Admit the evidence under Rule 413 if its probative value is not substantially outweighed by prejudice
- D. Admit the evidence to show the defendant's habit of sexual misconduct

35. A driver was operating his car when he encountered an unexpected blizzard. Visibility was severely limited, and the road was covered with snow and ice. The driver slowed his vehicle but lost control on a patch of black ice and struck a pedestrian who was walking on the shoulder. The pedestrian sued for negligence. What is the most likely result?

- A. The driver is liable because he should not have been driving in the blizzard
- B. The driver is not liable if he exercised reasonable care under the weather conditions
- C. The driver is liable for strict liability due to the dangerous weather
- D. The driver is not liable because pedestrians assume the risk of walking in storms

36. A federal statute required certain businesses to maintain records of all transactions exceeding \$1,000 for tax purposes. A business owner challenged the statute as exceeding Congress's authority under the Commerce Clause. The business owner operates only within his home state. What is the most likely result?

- A. The statute is unconstitutional because Congress cannot regulate intrastate transactions
- B. The statute is unconstitutional because record-keeping requirements are not commercial activity
- C. The statute is constitutional because record-keeping affects interstate tax collection
- D. The statute is constitutional because business record-keeping substantially affects interstate commerce in the aggregate

37. A buyer ordered 500 specialized parts from a manufacturer at \$20 per part. The contract specified delivery on June 1. On May 15, the manufacturer informed the buyer that production had been delayed and delivery would not occur until June 30. The buyer immediately purchased substitute parts from another supplier at \$25 per part. The buyer sues the manufacturer for damages. What is the buyer's recovery?

- A. \$25,000 representing the full cost of the substitute parts
- B. \$10,000 representing the difference between contract and market prices
- C. \$2,500 representing the difference between the contract price and the substitute price
- D. Nominal damages because the buyer eventually received parts

38. A defendant was charged with armed robbery. The defendant claimed that he was elsewhere at the time of the robbery. The prosecution called a witness who testified that, at the time of the robbery, she had heard a man's voice say "Give me all your money." The witness believed the voice belonged to the defendant based on her previous interactions with him. The defense objects to the witness's voice identification. How should the court rule?

- A. Admit the identification because the witness has personal knowledge of the defendant's voice
- B. Suppress the identification because voice identifications are unreliable
- C. Admit the identification only if the witness has had recent contact with the defendant
- D. Suppress the identification because the witness did not see the speaker

39. A homeowner conveyed her property by deed to her son and daughter "as joint tenants with right of survivorship." Several years later, the son executed a will leaving all his property to his wife. The son died first. Who owns the property after the son's death?

- A. The wife inherits the son's interest under his will
- B. The wife and daughter become tenants in common
- C. The son's estate retains his interest until probate
- D. The daughter owns the entire property by right of survivorship

40. A pedestrian was crossing a street when she was struck by a car. The driver claimed that the pedestrian had darted into the road without warning. At trial, the pedestrian sought to introduce evidence that the driver had been involved in two similar accidents in the past three years involving pedestrians darting into the road. The driver objects. How should the court rule?

- A. Admit the evidence to show the driver's propensity for negligence
- B. Exclude the evidence as improper character evidence under Rule 404
- C. Admit the evidence to show the driver's character for inattentive driving
- D. Exclude the evidence because two accidents do not establish a habit

41. A defendant was charged with the murder of his ex-wife. The defendant raised the affirmative defense of insanity and called a psychiatrist to testify that he was suffering from a severe mental illness at the time

of the offense. On cross-examination, the prosecution sought to ask the psychiatrist about specific statements the defendant had made during therapy sessions about his hatred for his ex-wife. The defense objects, citing the patient-psychiatrist privilege. How should the court rule?

- A. Sustain the objection because the privilege protects all therapy communications
- B. Overrule the objection because the privilege does not apply in criminal cases
- C. Overrule the objection because the defendant waived the privilege by raising insanity as a defense
- D. Sustain the objection because the prosecution must seek the statements through other means

42. A buyer and seller entered into a written contract for the sale of a parcel of real estate for \$500,000. The contract specified a closing date of June 30 and stated that "time is of the essence" with respect to the closing. On June 25, the buyer's bank denied his loan application. The buyer requested an extension to seek alternative financing. The seller refused. What is the legal effect?

- A. The seller is entitled to terminate the contract due to the buyer's failure to perform on time
- B. The buyer is entitled to a reasonable extension despite the time-of-the-essence clause
- C. The seller must wait until the closing date passes before terminating
- D. The buyer is entitled to specific performance once financing is obtained

43. A driver was traveling on a highway when a deer ran in front of his car. He swerved to avoid the deer and lost control of the vehicle, striking another car driving in the opposite direction. The driver of the other car was injured and sued the first driver for negligence. The driver defends on the ground that the deer's sudden appearance was an unforeseeable event. What is the most likely result?

- A. The driver is liable for strict liability for operating a motor vehicle
- B. The driver is liable because all reasonable drivers should expect deer on rural roads
- C. The driver is not liable because the deer's appearance was an act of God
- D. The driver is not liable if his reaction was reasonable under the sudden emergency

44. A federal statute prohibited the importation of any goods produced by child labor. A small American business challenged the statute on grounds that the statute violated the Equal Protection Clause by treating

businesses that import these goods differently from those that produce similar goods domestically. What is the most likely result?

- A. The statute is unconstitutional because it discriminates against importers
- B. The statute is constitutional because the federal government may regulate foreign commerce broadly
- C. The statute is unconstitutional because it imposes additional burdens on certain businesses
- D. The statute is constitutional only if it serves a compelling government interest

45. A plaintiff filed a federal court action against a defendant for breach of contract. After completing discovery, the plaintiff moved for summary judgment. The defendant responded with an affidavit denying the breach. The court denied the summary judgment motion. At trial, the jury found for the defendant. The plaintiff appealed the trial court's denial of summary judgment. What is the standard of review?

- A. The appellate court will affirm the denial because the case proceeded to trial
- B. The appellate court will reverse if the evidence at summary judgment showed entitlement
- C. The appellate court reviews the denial de novo, based on the summary judgment record
- D. The appellate court reviews for abuse of discretion by the trial court

46. A landlord owns an apartment building. He hired a security guard to patrol the premises at night. While on duty, the security guard assaulted a tenant during an argument. The tenant sues the landlord under a theory of vicarious liability. What is the landlord's strongest defense?

- A. The security guard's assault was outside the scope of his employment
- B. The landlord had no knowledge of the security guard's violent tendencies
- C. The security guard was an independent contractor
- D. The landlord had hired the security guard from a licensed agency

47. A defendant was charged with the murder of his neighbor. At trial, the prosecution sought to introduce a recorded telephone conversation between the defendant and an undercover officer in which the defendant discussed the murder. The defendant had been under indictment at the time of the call but had not been formally arrested. The defense objects on Sixth Amendment grounds. How should the court rule?

- A. Admit the recording because the defendant voluntarily made the statements
- B. Suppress the recording because the Sixth Amendment right to counsel attached at indictment
- C. Admit the recording because the defendant was not in custody
- D. Suppress the recording because all telephone recordings require warrants

48. A buyer entered into a written contract to purchase a parcel of real estate from a seller for \$400,000. The buyer paid a \$40,000 earnest money deposit. The contract was contingent on the buyer obtaining financing within 60 days. After 60 days, the buyer had not obtained financing and the seller cancelled the contract. The seller refused to return the earnest money. The buyer sues to recover the deposit. What is the most likely result?

- A. The seller retains the deposit because the buyer failed to satisfy the contingency
- B. The buyer recovers the deposit because the contract was conditional
- C. The seller retains the deposit if it represents reasonable estimated damages
- D. The buyer recovers the deposit because the contingency excused performance

49. A defendant was charged with possession of cocaine. At trial, the prosecution sought to introduce evidence that the defendant had been arrested two years earlier for possession of methamphetamine. The arrest did not result in a conviction. The defense objects. How should the court rule?

- A. Exclude the evidence because prior arrests not resulting in convictions are inadmissible
- B. Admit the evidence to show the defendant's character for drug possession
- C. Admit the evidence to show the defendant's motive
- D. Exclude the evidence under Rule 404(b) as improper character evidence

50. A state passed a law requiring all retailers to charge a 5-cent fee for plastic shopping bags. The fee was collected by retailers and remitted to the state. A retailer challenges the law on First Amendment grounds, arguing that the fee compels the retailer to speak. What is the most likely result?

- A. The law is unconstitutional because it compels economic activity
- B. The law is unconstitutional because retailers have a right to set their own prices

- C. The law is constitutional because economic regulations are subject to rational basis review
- D. The law is constitutional only if the proceeds fund environmental programs

51. A pedestrian was struck by a car and sustained injuries. The pedestrian sued the driver for negligence. During discovery, the driver requested production of all medical records relating to the pedestrian's injuries. The pedestrian objected, claiming the records were protected by physician-patient privilege. The driver moves to compel production. How should the court rule?

- A. Sustain the objection because medical records are privileged regardless of the litigation
- B. Sustain the objection because privileges apply equally in all civil proceedings
- C. Overrule the objection because the pedestrian must seek alternative damages
- D. Overrule the objection because the pedestrian has placed her medical condition at issue

52. A homeowner conveyed her property "to my son for life, then to whomever my son shall designate by will, but if my son fails to make a will, then to my daughter." The son died without making a will. What is the legal effect on the daughter's interest?

- A. The daughter has no interest because the son failed to designate
- B. The daughter takes the property as a contingent remainder vested upon the son's death without a will
- C. The daughter takes the property only if the son's heirs are unknown
- D. The daughter's interest is void as violating the Rule Against Perpetuities

53. A defendant was charged with embezzlement from his employer. At trial, the prosecution sought to introduce business records showing the defendant's daily cash receipts and deposits. The records were created by the company's accountant. The accountant was unavailable to testify. The defense objects on hearsay grounds. How should the court rule?

- A. Exclude the records because they constitute inadmissible hearsay
- B. Admit the records only if the defendant created them
- C. Admit the records under the business records exception with proper foundation
- D. Exclude the records because the accountant is unavailable

54. A driver was operating his car when his cell phone rang. As he reached for the phone, his car drifted into the next lane and collided with another vehicle. The other driver was injured and sued for negligence. The defendant driver argues that he had momentarily turned his attention to his phone. What is the most likely result?

- A. The driver is liable because reaching for a cell phone while driving constitutes negligence
- B. The driver is not liable because the cell phone use was momentary
- C. The driver is liable for strict liability for using a cell phone
- D. The driver is not liable if the cell phone was on hands-free mode

55. A federal statute prohibited the use of certain types of firearms in connection with any federal crime. A defendant was charged with violating the statute after he was found in possession of a sawed-off shotgun during the commission of a bank robbery. The defendant argues that the statute is unconstitutionally vague because it does not clearly define which firearms are prohibited. How should the court rule?

- A. The statute is unconstitutional because it gives undue discretion to prosecutors
- B. The statute is unconstitutional because it fails to define prohibited firearms with precision
- C. The statute is constitutional if the firearm's identification is reasonably clear
- D. The statute is constitutional only if the defendant had knowledge of the prohibition

56. A buyer purchased a used car from a dealer for \$20,000. The dealer represented that the car had been driven only 60,000 miles, but the actual mileage was 130,000. The buyer discovered the discrepancy three months after the purchase. The buyer sues the dealer for damages. What is the buyer's strongest theory of recovery?

- A. Mistake of fact regarding the car's condition
- B. Fraudulent misrepresentation of a material fact
- C. Breach of the implied warranty of fitness
- D. Unconscionability of the contract terms

57. A defendant was arrested for armed robbery. At the police station, officers gave him Miranda warnings. The defendant signed a waiver form. During questioning, the defendant made several

incriminating statements. He moves to suppress the statements, arguing that he did not fully understand the consequences of his waiver. The trial court found that the waiver was voluntary, knowing, and intelligent. On appeal, what is the standard of review?

- A. The appellate court reviews voluntariness de novo
- B. The appellate court reviews the entire ruling de novo
- C. The appellate court accepts the trial court's findings unless clearly erroneous
- D. The appellate court reviews for abuse of discretion

58. A homeowner and her neighbor share a driveway between their properties. The driveway is maintained by both homeowners. Recently, the neighbor began parking large commercial trucks in the driveway, blocking the homeowner's access. The homeowner sues for an injunction. What is the homeowner's strongest theory of recovery?

- A. Interference with the homeowner's implied easement of access
- B. Negligent infliction of emotional distress
- C. Breach of the neighbor's duty as a co-owner
- D. Trespass to land based on the neighbor's parking

59. A defendant was charged with assault. At trial, the defendant called a witness who testified that the defendant had a peaceful character. On cross-examination, the prosecution sought to ask the witness about a specific incident in which the defendant had punched a co-worker. The defense objects. How should the court rule?

- A. Sustain the objection because specific acts of misconduct are inadmissible
- B. Overrule the objection because the defense opened the door to character evidence
- C. Sustain the objection because the prior incident is too remote in time
- D. Overrule the objection because the assault is the same type of conduct

60. A driver was operating his car at night when he encountered a fog bank. Visibility was severely reduced. The driver slowed his car but did not stop. He struck a pedestrian who was walking along the shoulder of the road. The pedestrian sues for negligence. What is the most likely result?

- A. The driver is not liable because the fog was unforeseeable
- B. The driver is not liable because the pedestrian assumed the risk of walking in fog
- C. The driver is liable for strict liability for operating a vehicle in fog
- D. The driver is liable if he failed to exercise reasonable care under the foggy conditions

61. A federal statute prohibited the discrimination against any person in employment based on race, color, religion, sex, or national origin. An employer refused to hire a qualified African American applicant for a position. The employer claimed that he was concerned about losing his existing clientele. The applicant sues under the federal statute. What is the most likely result?

- A. The employer is not liable because he was protecting his business interests
- B. The employer is liable only if the applicant can prove malicious intent
- C. The employer is liable because federal law prohibits racial discrimination regardless of business motives
- D. The employer is not liable if the existing clientele preferred non-minority employees

62. A buyer entered into a written contract to purchase a parcel of land from a seller for \$250,000. The contract specified that the seller would deliver "marketable title." Two weeks before closing, the buyer discovered an unpaid property tax lien of \$5,000. The seller offered to pay the lien at closing. Is the title "marketable"?

- A. Yes, because the seller can satisfy the lien at closing
- B. No, because all liens render title unmarketable
- C. No, because the buyer would assume the lien at closing
- D. Yes, but only if the lien is recorded after the contract date

63. A defendant was charged with the murder of his neighbor. At trial, the prosecution called a witness who testified that, six months before the murder, the defendant had told her, "I'm going to kill that bastard." The witness was the defendant's former girlfriend. The defense objects on relevance grounds. How should the court rule?

- A. Admit the statement to show the defendant's intent and absence of mistake

- B. Admit the statement to show the defendant's character for violence
- C. Exclude the statement as more prejudicial than probative
- D. Exclude the statement because it is too remote in time

64. A landlord and tenant entered into a one-year residential lease. The lease required the tenant to pay rent on the first of each month. The tenant fell behind by two months. The landlord changed the locks on the apartment without notice and removed the tenant's belongings. The tenant sues the landlord. What is the most likely result?

- A. The landlord is not liable because the tenant was in default
- B. The landlord is not liable because self-help is permitted for nonpayment of rent
- C. The landlord is liable only if the tenant had not received notice
- D. The landlord is liable for wrongful eviction because self-help is generally prohibited

65. A defendant was charged with possession of an unregistered firearm. The defendant argued that he was unaware of the registration requirement. The defendant's lawyer argues that ignorance of the law is a defense in this case. How should the court rule?

- A. The defendant is guilty if the statute provides for strict liability regardless of knowledge
- B. The defendant is not guilty if he had no reason to know about the requirement
- C. The defendant is guilty because mistake of law is generally not a defense
- D. The defendant is not guilty if the registration requirement was newly enacted

66. A federal statute required all federal employees to undergo random drug testing as a condition of employment. A federal employee challenged the testing as a violation of the Fourth Amendment. The government argued that the testing was necessary to maintain workplace safety. What is the most likely result?

- A. The testing is constitutional because the government has a special need beyond ordinary law enforcement
- B. The testing is unconstitutional because random testing requires individualized suspicion

- C. The testing is unconstitutional because federal employees have privacy expectations
- D. The testing is constitutional only if it is performed by trained medical personnel

67. A plaintiff filed a federal court action against a defendant for trademark infringement. After discovery was complete, the plaintiff requested that the defendant's deposition be taken to obtain crucial evidence. The defendant moved to quash the deposition. The court has not yet ruled. What is the proper procedure?

- A. The court will deny the motion because depositions are routine in federal court
- B. The court will grant the motion only if the defendant can show good cause for the protective order
- C. The court will grant the motion because depositions of defendants are restricted
- D. The court will deny the motion because the plaintiff has the right to take depositions

68. A defendant was charged with attempted murder. The prosecution presented evidence that the defendant had purchased a weapon, researched the victim's daily routine, and traveled to the victim's home with the weapon. However, the defendant did not actually attack the victim. The defendant argues that he abandoned his plan and never completed the attempted murder. How should the court rule?

- A. The defendant is not guilty because abandonment is a complete defense
- B. The defendant is guilty if the prosecution can prove specific intent
- C. The defendant is not guilty because he never actually attacked the victim
- D. The defendant is guilty because his preparations constituted a substantial step

69. A buyer and seller entered into a written contract for the sale of a car for \$30,000. The contract included a clause stating that the buyer could return the car within 30 days for any reason. After 25 days, the buyer informed the seller that he wished to return the car. The seller refused. The buyer sues for return of the purchase price. What is the most likely result?

- A. The buyer is entitled to return the car and recover the purchase price
- B. The buyer is bound by the contract because no defects were identified
- C. The buyer is entitled to keep the car but recover damages for the seller's breach
- D. The buyer must seek arbitration before pursuing legal action

70. A homeowner conveyed his property "to my daughter for life, then to her children." At the time of the conveyance, the daughter was alive but had no children. Two years later, the daughter had her first child, then a second child. What is the legal effect of the second child's birth on the first child's interest?

- A. The first child's interest is extinguished by the birth of the second child
- B. The first child's interest is unaffected because it was vested at the time of birth
- C. The first child's vested remainder is subject to open and now includes the second child
- D. The first child must wait until the daughter dies before sharing

71. A driver was operating his car when he was struck by a hit-and-run driver who fled the scene. The first driver suffered injuries and was unable to identify the hit-and-run driver. He sues his own insurance company under the uninsured motorist coverage. The insurance company defends on the ground that the driver cannot identify the at-fault driver. What is the most likely result?

- A. The driver is barred from recovery because he cannot identify the responsible party
- B. The driver may recover under uninsured motorist coverage despite the unknown driver
- C. The driver must continue investigating before pursuing recovery
- D. The driver may recover only if he obtains witnesses to the accident

72. A federal statute prohibited the use of certain pesticides on agricultural land. A state agricultural department challenged the statute, arguing that it improperly preempted state regulation. The state had also passed laws regulating pesticide use. What is the most likely result?

- A. The federal statute is preempted by the state laws because agriculture is a state concern
- B. The federal statute does not preempt state law if both regulate the same conduct
- C. The state laws are preempted if Congress intended to occupy the field
- D. The federal statute and state laws may coexist regardless of conflict

73. A defendant was charged with assault and battery. At trial, the prosecution called the alleged victim, who testified that the defendant had struck her in the face. On cross-examination, the defense sought to ask the victim about her recent conviction for theft. The prosecution objects. How should the court rule?

- A. Exclude the evidence because theft is too remote in time
- B. Admit the evidence only if the defendant was the victim of the theft
- C. Admit the evidence because theft is a crime of dishonesty admissible for impeachment
- D. Exclude the evidence because it does not show bias toward the prosecution

74. A pedestrian was struck by a delivery truck owned by a corporation. The truck driver had been drinking alcohol before the accident, contrary to company policy. The pedestrian sues the corporation under a theory of vicarious liability. What is the corporation's strongest defense?

- A. The driver's intoxicated driving was outside the scope of his employment
- B. The driver was an independent contractor
- C. The corporation had implemented a strict no-alcohol policy
- D. The driver had been employed for less than six months

75. A buyer entered into a written contract to purchase a parcel of real estate from a seller for \$300,000. The contract included a clause stating that the buyer could terminate the contract within 14 days of the inspection. On day 12 after the inspection, the buyer notified the seller of his decision to terminate. The seller refused to refund the earnest money deposit. The buyer sues to recover the deposit. What is the most likely result?

- A. The seller retains the deposit because the buyer terminated within the allowed time
- B. The seller retains the deposit because the buyer did not identify specific defects
- C. The buyer recovers the deposit because the seller acted in bad faith
- D. The buyer recovers the deposit because he validly exercised the termination right

76. A defendant was charged with possession of stolen property. At trial, the prosecution sought to introduce evidence that the defendant had been seen handling a watch shortly after a burglary at a jewelry store. The watch matched one stolen in the burglary. The defense argues that the prosecution cannot establish that the defendant knew the watch was stolen. How should the court rule?

- A. The defendant is not guilty because the prosecution must prove actual knowledge

- B. The defendant is guilty if the jury finds beyond a reasonable doubt that he knew or had reason to know the watch was stolen
- C. The defendant is guilty because possession of stolen property requires no knowledge
- D. The defendant is not guilty because the prosecution must prove specific intent to steal

77. A federal statute prohibited the possession of any firearm by a person convicted of a felony. A defendant was charged with violating the statute after being arrested in possession of a handgun. The defendant's prior felony conviction was for tax evasion. The defendant argues that the federal government exceeds its authority by regulating non-violent felonies. What is the most likely result?

- A. The statute is unconstitutional because it applies to all felonies
- B. The statute is unconstitutional because tax evasion does not involve violence
- C. The statute is constitutional under Congress's commerce clause authority
- D. The statute is constitutional only if the firearm was used in another crime

78. A homeowner contracted with a contractor to install a new bathroom for \$15,000. The contractor began work but, due to unforeseen difficulties, requested an additional \$3,000 to complete the work. The homeowner agreed in writing. After completion, the homeowner refused to pay the additional \$3,000. The contractor sues for the additional amount. What is the most likely result?

- A. The contractor recovers the additional \$3,000 because the modification was based on unforeseen difficulties
- B. The contractor cannot recover the additional amount because the original contract was binding
- C. The contractor cannot recover the additional amount because no new consideration was provided
- D. The contractor recovers the additional amount only if the homeowner is in good faith

79. A defendant was charged with the murder of his former business partner. At trial, the prosecution sought to introduce a recording of a 911 call made by the victim, who said, "I just got shot. The defendant did it." The victim died at the scene. The defense objects on Confrontation Clause grounds. How should the court rule?

- A. Suppress the statement because the victim cannot be cross-examined

- B. Admit the statement because it falls within the present sense impression exception
- C. Suppress the statement because it is testimonial in nature
- D. Admit the statement under the dying declaration exception

80. A driver was operating his car when his car was struck by a deer that suddenly ran into the road. The driver was unable to avoid the collision and lost control of the vehicle. The car struck another vehicle, injuring its driver. The injured driver sues for negligence. What is the most likely result?

- A. The driver is liable because all owners must control their vehicles
- B. The driver is not liable because the deer's appearance was a sudden and unforeseeable event
- C. The driver is liable for strict liability for operating a motor vehicle
- D. The driver is not liable because the deer is a wild animal

81. A federal statute prohibited the discrimination against any person in employment based on race, color, religion, sex, or national origin. A company refused to hire a female applicant for a position that required heavy lifting. The company argued that the position was unsuitable for women due to physical requirements. The applicant sues under the federal statute. What is the most likely result?

- A. The company is liable for discrimination because gender is a protected characteristic
- B. The company is liable only if the female applicant could perform the physical requirements
- C. The company is not liable if physical strength is a bona fide occupational qualification
- D. The company is liable only if it lacks evidence of women being unable to perform the job

82. A plaintiff filed a federal court action against a defendant for fraud. After completion of discovery, the defendant moved for summary judgment. The plaintiff opposed the motion with extensive documentary evidence. The court denied the summary judgment motion. At trial, the jury returned a verdict for the plaintiff. The defendant appealed, arguing that summary judgment should have been granted. What is the most likely result?

- A. The appellate court will review the denial de novo based on the summary judgment record
- B. The appellate court will reverse if the evidence at trial was clear and convincing

- C. The appellate court will affirm because the case proceeded to trial without prejudice
- D. The appellate court will review for abuse of discretion by the trial court

83. A defendant was charged with assault after a road rage incident. The defendant claimed self-defense. At trial, the prosecution sought to introduce evidence that the defendant had previously assaulted his ex-wife during their divorce proceedings. The defense objects. How should the court rule?

- A. Admit the evidence to show the defendant's propensity for violence
- B. Exclude the evidence as improper character evidence under Rule 404
- C. Admit the evidence to rebut the self-defense claim by showing the defendant was the aggressor
- D. Exclude the evidence because the prior incident is too remote in time

84. A landowner conveyed his property "to my son for life, then to his children equally." At the time of the conveyance, the son was alive but had no children. Five years later, the son had a child. Two years after that, the son adopted another child. What is the legal effect of the adoption on the property interests?

- A. The biological child is the sole beneficiary because adopted children are excluded
- B. The adopted child has no interest because adoption was not contemplated by the grantor
- C. The biological and adopted children share the interest equally as the son's children
- D. The adopted child shares with the biological child as the son's children under modern law

85. A driver was operating his car at the speed limit when he was struck by another vehicle running a red light. Both drivers were injured. The first driver sues the second driver for negligence. At trial, the second driver argues that the first driver should have observed the red light running and taken evasive action. What is the most likely result?

- A. The first driver's failure to observe the red light running constitutes contributory negligence
- B. The first driver may have his recovery reduced based on comparative negligence
- C. The first driver is barred from recovery as a matter of law
- D. The first driver may recover full damages despite the second driver's argument

86. A federal court is hearing a case involving claims arising under both federal and state law. The federal claim has been resolved through summary judgment. The state-law claim continues to be pending. The defendant moves to dismiss the state-law claim for lack of jurisdiction. How should the court rule?

- A. The court may exercise discretion to dismiss the state-law claim without prejudice
- B. The court must retain jurisdiction because the case is already pending
- C. The court must transfer the state-law claim to state court
- D. The court loses all jurisdiction once the federal claim is resolved

87. A defendant was charged with selling controlled substances. At trial, the prosecution called an undercover officer who testified that he had purchased drugs from the defendant on three occasions. The officer's testimony was based on his notes and recordings of the transactions. The defense argues that the officer's testimony is hearsay. How should the court rule?

- A. Suppress the testimony because the officer relied on notes
- B. Admit the testimony only if the recordings are authenticated
- C. Suppress the testimony because the officer's notes are inadmissible
- D. Admit the testimony because the officer has personal knowledge of the transactions

88. A homeowner contracted with a builder to construct an addition to her house for \$30,000. The contract specified that the work would be completed within 90 days. The builder completed the work in 100 days. The homeowner refused to pay the full contract price, claiming that the builder had breached the contract by completing late. The builder sues for the full contract price. What is the most likely result?

- A. The builder cannot recover because the late completion breached the contract
- B. The builder can recover the full contract price minus damages for the 10-day delay
- C. The builder can recover the full contract price because the work was completed
- D. The builder can recover only the reasonable value of the work performed

89. A defendant was charged with first-degree murder after killing his wife. The defendant claimed insanity. At trial, the prosecution sought to introduce statements made by the defendant during a

psychiatric evaluation. The evaluation was conducted by a court-appointed psychiatrist. The defendant moves to suppress the statements. How should the court rule?

- A. Admit the statements because court-appointed evaluations are not privileged
- B. Suppress the statements because the defendant was in custody at the time
- C. Admit the statements because the defendant placed his mental state at issue
- D. Suppress the statements because they violate the patient-psychiatrist privilege

90. A driver was operating his car in a neighborhood when a child suddenly ran out from between parked cars to retrieve a ball. The driver was unable to stop in time and struck the child. The child's parents sue for negligence. The driver was traveling within the posted speed limit. What is the most likely result?

- A. The driver is liable because residential neighborhoods require heightened care, even at the speed limit
- B. The driver is liable only if he was familiar with the neighborhood
- C. The driver is liable for strict liability because of the child victim
- D. The driver is not liable because the child's actions were unforeseeable

91. A federal statute prohibited the discrimination against any person on the basis of religious belief or practice. A private business refused to provide services to customers of a particular religious denomination, claiming that the owner's own religious beliefs justified the refusal. The customers sue under the federal statute. What is the most likely result?

- A. The business is not liable if the owner can prove sincere religious objections
- B. The business is liable because federal law prohibits religious discrimination by private businesses
- C. The business is not liable because the business owner has religious freedom
- D. The business is liable only if customers can prove they were intentionally targeted

92. A buyer entered into a written contract to purchase a parcel of real estate from a seller for \$200,000. The contract included a clause stating that the seller would deliver "marketable title." Two weeks before closing, the buyer discovered that the seller had not received the title insurance policy from the title company. The seller offered to provide the policy at closing. Is the title "marketable"?

- A. The title is not marketable until the title policy is delivered
- B. The title is marketable because title insurance is separate from title quality
- C. The title is not marketable if the title company has not approved
- D. The title is marketable as long as the seller can deliver the policy at closing

93. A defendant was arrested for armed robbery. At the police station, officers gave him Miranda warnings. The defendant did not request counsel and proceeded to answer questions. During the questioning, the defendant invoked his right to remain silent. Officers continued questioning him for thirty more minutes. The defendant moves to suppress statements made after he invoked his right. How should the court rule?

- A. Admit all statements because the defendant initially waived his rights
- B. Suppress only statements made after the defendant invoked his right to silence
- C. Suppress the statements made after the defendant invoked his rights and questioning continued
- D. Admit the statements because thirty minutes is a brief interruption

94. A landowner conveyed his property "to my brother for life, then to my brother's children." At the time of the conveyance, the brother was alive and had two children, A and B. Three years later, A died, leaving children X and Y. What is the legal effect on the property interests?

- A. X and Y take A's interest by representation, sharing in the property with B
- B. B inherits the entire interest of the brother's children
- C. X and Y have no interest because A died before the brother
- D. A's interest is extinguished by his death

95. A driver was operating his car when he experienced a sudden onset of dizziness from a previously undiagnosed medical condition. He believed he could continue driving safely, but moments later he lost control and struck a pedestrian. The pedestrian sues for negligence. What is the most likely result?

- A. The driver is not liable because the medical condition was unforeseeable
- B. The driver is liable for strict liability for operating a motor vehicle

- C. The driver is not liable because he was unaware of the condition
- D. The driver is liable because he should have stopped driving when he felt dizzy

96. A federal statute prohibited the discrimination against any person in housing based on race, color, religion, sex, or national origin. A landlord refused to rent an apartment to a Latino family because she preferred to rent to non-Hispanic tenants. The family sues the landlord. What is the most likely result?

- A. The landlord is not liable because she has freedom to choose her tenants
- B. The landlord is liable for discrimination based on national origin
- C. The landlord is liable only if the family can prove discriminatory intent
- D. The landlord is not liable because rental preferences are a matter of personal taste

97. A plaintiff filed a federal court action against a defendant for breach of contract. The plaintiff is a citizen of Florida, and the defendant is a citizen of Georgia. The contract was for the sale of equipment for \$100,000. The defendant moves to dismiss for lack of subject matter jurisdiction. How should the court rule?

- A. Grant the motion because federal courts cannot hear breach of contract claims
- B. Grant the motion because the amount in controversy is below the diversity threshold
- C. Deny the motion because diversity jurisdiction is established with sufficient amount
- D. Deny the motion because the contract dispute arises under federal law

98. A defendant was charged with assault. At trial, the defendant claimed self-defense. The prosecution sought to introduce evidence that, three months before the assault, the defendant had purchased a gun. The defense objects. How should the court rule?

- A. Exclude the evidence because gun ownership is constitutionally protected
- B. Admit the evidence to show the defendant's character for violence
- C. Exclude the evidence as more prejudicial than probative for proving self-defense
- D. Admit the evidence to show the defendant's motive for the assault

99. A homeowner conveyed her property "to my son and his heirs, but if my son ever uses the property for commercial purposes, then to my daughter and her heirs." Three years later, the son began operating a small business from the property. The daughter immediately demanded the property. What is the legal effect?

- A. The property remains with the son because the daughter must give notice
- B. The property automatically vests in the daughter upon the violation
- C. The son retains the property unless the daughter files a lawsuit
- D. The condition is void as violating the Rule Against Perpetuities

100. A driver was operating his car at night when he was distracted by adjusting the radio. His car drifted across the center line and struck another vehicle. The other driver was injured. At trial, the defendant driver argues that adjusting the radio is a routine driving task. What is the most likely result?

- A. The driver is not liable because radio adjustment is incidental to driving
- B. The driver is not liable because the other driver should have been more vigilant
- C. The driver is liable only if the radio adjustment took an extended period
- D. The driver is liable because the radio adjustment caused him to be inattentive

101. A defendant was charged with the murder of his neighbor. At trial, the prosecution sought to introduce a confession the defendant had made to his cellmate. The cellmate was not acting as a government informant. The defense objects on the ground that the confession was obtained without Miranda warnings. How should the court rule?

- A. Admit the confession because the cellmate was not a state actor
- B. Suppress the confession because the defendant was in custody
- C. Admit the confession only if the cellmate received compensation
- D. Suppress the confession because all jailhouse statements are inherently coercive

102. A federal court is hearing a case involving a federal claim and a related state-law claim. The plaintiff has voluntarily dismissed the federal claim. The defendant moves to dismiss the state-law claim for lack of jurisdiction. How should the court rule?

- A. The court must retain jurisdiction because the case is already pending
- B. The court must transfer the state-law claim to state court automatically
- C. The court loses jurisdiction once the federal claim is dismissed
- D. The court may exercise discretion under 28 U.S.C. § 1367 to retain or dismiss

103. A defendant was charged with murder after he shot and killed a victim who was burglarizing his home at night. The defendant argues that he was acting in self-defense and defense of his home. The prosecution argues that the use of deadly force was excessive. What is the most likely result?

- A. The defendant is not guilty because all home invasion repels are justified
- B. The defendant is guilty because deadly force is never justified
- C. The defendant is not guilty if the use of deadly force was reasonable under the circumstances
- D. The defendant is guilty unless he can prove imminent fear of death

104. A buyer ordered 100 widgets from a seller at \$50 per widget. The contract specified delivery within 30 days. On the delivery date, the seller delivered 80 widgets and informed the buyer that the remaining 20 widgets would be delivered the next week. The buyer accepted the 80 widgets but indicated that he would expect the remaining 20. What is the buyer's legal right?

- A. The buyer must accept the entire delivery without remedy
- B. The buyer may treat the partial delivery as a breach of the entire contract
- C. The buyer may keep the 80 widgets and recover damages for any shortage
- D. The buyer must allow the seller a reasonable time to deliver the remaining widgets

105. A defendant was charged with possession of an illegal weapon. At trial, the prosecution sought to introduce the weapon, which had been recovered from the defendant's home pursuant to a search warrant. The defense argues that the warrant was invalid because it lacked sufficient probable cause. The trial court ruled that the warrant was valid. On appeal, what is the standard of review?

- A. The appellate court reviews the warrant's validity de novo
- B. The appellate court reviews the trial court's ruling for clear error

- C. The appellate court accepts the warrant's validity unless there is no factual basis
- D. The appellate court reviews for abuse of discretion

106. A homeowner conveyed her property "to my son for life, then to my daughter." At the time of the conveyance, the son and daughter were both alive. Two years later, the daughter died, leaving children A and B. Five years later, the son died. What is the legal effect on the property?

- A. The property reverts to the homeowner because the daughter died first
- B. The son's life estate continues until his death, regardless of the daughter's death
- C. The daughter's children A and B inherit the property by representation
- D. The property passes through the daughter's estate to her heirs

107. A federal statute prohibited the discrimination against any person on the basis of age in employment. An employer refused to hire a 62-year-old applicant for a position, claiming that the applicant was too old to learn the job. The applicant sued under the federal statute. What is the most likely result?

- A. The employer is not liable because age is not a protected characteristic
- B. The employer is liable only if the applicant was a member of a minority group
- C. The employer is liable only if the position involved a public office
- D. The employer is liable for age discrimination if the applicant was over 40 years old

108. A defendant was charged with conspiracy to distribute drugs. At trial, the prosecution sought to introduce statements made by an alleged co-conspirator who pleaded guilty and refused to testify. The statements were made during the conspiracy and in furtherance of it. The defense objects on hearsay grounds. How should the court rule?

- A. Exclude the statements because the co-conspirator is not testifying
- B. Admit the statements as non-hearsay statements by a co-conspirator under Rule 801(d)(2)(E)
- C. Suppress the statements because the defendant was not present when made
- D. Admit the statements only with the co-conspirator's consent

109. A driver was operating his car when his brakes suddenly failed. Investigation revealed that the brakes had been improperly installed by a mechanic two weeks earlier. The driver had not had any reason to know about the defective installation. The car struck a pedestrian. The pedestrian sues both the driver and the mechanic. What is the most likely result regarding the driver's liability?

- A. The driver is not liable if he had no reason to know about the defective brakes
- B. The driver is liable because owners are responsible for vehicle maintenance
- C. The driver is liable for strict liability for operating a vehicle
- D. The driver is not liable only if the mechanic was negligent

110. A landlord and tenant entered into a written commercial lease. The lease required the tenant to maintain the property in good condition. After two years, the tenant complained of significant structural damage to the building. The landlord refused to make repairs. The tenant continued to occupy the premises but reduced his rent payments by half. The landlord sues for the full rent. What is the most likely result?

- A. The tenant is liable for the full rent regardless of structural issues
- B. The tenant is liable only if the structural damage was tenant-caused
- C. The tenant may withhold rent based on the landlord's breach of warranty
- D. The tenant must vacate the premises to claim constructive eviction

111. A defendant was charged with the murder of his business partner. At trial, the prosecution sought to introduce a confession the defendant had made during a polygraph examination. The polygraph was conducted by a private examiner at the defendant's own request. The defendant moves to suppress the confession. How should the court rule?

- A. Admit the confession because polygraph evidence is generally inadmissible but related confessions are admissible
- B. Suppress the confession because polygraphs are unreliable
- C. Suppress the confession because Miranda warnings were required
- D. Admit the confession because the polygraph was voluntary

112. A buyer entered into a written contract to purchase a parcel of land from a seller for \$300,000. The contract specified that the seller would provide "marketable title." Two weeks before closing, the buyer discovered that the property was subject to a 5-foot utility easement. The seller claims that utility easements are standard and do not affect marketability. Is the title "marketable"?

- A. The title is not marketable because all easements impair marketability
- B. The title is marketable because utility easements are typical for residential property
- C. The title is not marketable if the easement materially affects use
- D. The title is marketable only if the easement is recorded

113. A defendant was charged with armed robbery. At trial, the prosecution sought to introduce evidence that the defendant had been previously convicted of robbery 12 years earlier. The defense objects. How should the court rule?

- A. Admit the evidence to show the defendant's character for criminal behavior
- B. Exclude the evidence as improper character evidence
- C. Exclude the evidence because the conviction is too remote in time
- D. Admit the evidence under Rule 609 if probative value outweighs prejudice

114. A homeowner conveyed her property "to my son for life, then to his children." At the time of the conveyance, the son was alive but had no children. Three years later, the son had a child. What interest does the child have at the time of birth?

- A. A vested remainder subject to open in fee simple
- B. A contingent remainder in fee simple
- C. An executory interest in fee simple
- D. A reversion that has now vested

115. A federal statute prohibited the discrimination against any person on the basis of disability. A government agency refused to hire a deaf applicant for a position that required some communication, claiming that the position was unsuitable for a deaf person. The applicant sues. What is the most likely result?

- A. The agency is liable only if the applicant could perform without accommodation
- B. The agency is not liable because the position required communication
- C. The agency is not liable because the applicant could not perform the essential functions
- D. The agency is liable if the applicant could perform essential functions with reasonable accommodation

116. A defendant was arrested for armed robbery. At the police station, officers gave him Miranda warnings. The defendant invoked his right to counsel. Three days later, after consulting with his attorney, the defendant requested to speak with the police about a different unrelated crime. The defendant made incriminating statements about the unrelated crime. He moves to suppress the statements. How should the court rule?

- A. Suppress the statements because the right to counsel extends to all questioning
- B. Admit the statements because the defendant initiated the new questioning after consulting with counsel
- C. Suppress the statements because the police should not have asked about the new crime
- D. Admit the statements only if the new crime is closely related to the original charge

117. A buyer and seller entered into a written contract for the sale of a residential property for \$400,000. The contract included a financing contingency. The buyer was unable to obtain financing within the specified time and notified the seller. The seller granted a 30-day extension but the buyer still could not obtain financing. The buyer sues to recover his earnest money deposit. What is the most likely result?

- A. The buyer recovers the deposit because the financing contingency failed
- B. The seller retains the deposit because the buyer received the extension
- C. The buyer recovers the deposit because the financing contingency was not satisfied
- D. The seller retains the deposit because the buyer failed to use good faith efforts

118. A defendant was charged with theft of services. The prosecution alleged that the defendant had used cable television services for several months without paying. The prosecution called the cable company's billing manager, who testified that the defendant had not paid his bills. The defense argues that the manager's testimony is hearsay. How should the court rule?

- A. Admit the testimony because it is based on the manager's personal knowledge of business records

- B. Exclude the testimony as inadmissible hearsay
- C. Exclude the testimony because the manager did not personally observe non-payment
- D. Admit the testimony only with proper authentication

119. A driver was operating his car when his cell phone rang. The driver attempted to answer the phone while driving. While reaching for the phone, the driver's car drifted off the road and struck a pedestrian. The pedestrian sues for negligence. The driver argues that the cell phone was a hands-free device. What is the most likely result?

- A. The driver is not liable because hands-free devices are legal
- B. The driver is liable only if the cell phone use violated state law
- C. The driver is not liable because the cell phone call was unexpected
- D. The driver is liable because his attention was diverted from driving

120. A federal court is hearing a case involving claims under both federal and state law arising from the same incident. The federal claim has been dismissed for failure to state a claim. The court must decide whether to retain jurisdiction over the state-law claim. What is the most likely outcome?

- A. The court must retain jurisdiction because of the relationship between claims
- B. The court will likely dismiss the state-law claim without prejudice
- C. The court must transfer the state-law claim to state court
- D. The court must dismiss the state-law claim with prejudice

121. A defendant was charged with possession of a controlled substance. At trial, the prosecution sought to introduce a baggie of suspected drugs that had been found in the defendant's apartment. The defense argues that the prosecution must establish chain of custody for the evidence. What is the proper procedure for authenticating the baggie?

- A. The defendant must consent to the introduction of the evidence
- B. The trial court determines authentication without any specific procedure
- C. The prosecution must establish a sufficient chain of custody for authentication

D. The defense must prove there was a break in the chain of custody

122. A homeowner contracted with a contractor to build a swimming pool in her backyard for \$25,000. The contractor completed the work, but the homeowner refused to pay, claiming that the work was defective. The contractor sues for the contract price. What is the contractor's burden of proof?

- A. The contractor must prove substantial performance of the contract
- B. The contractor must prove the homeowner accepted the work as conforming
- C. The contractor must prove the homeowner breached the contract without justification
- D. The contractor must prove that the work was completed in strict accordance with the contract

123. A defendant was charged with the murder of his estranged wife. At trial, the prosecution sought to introduce a recording of a 911 call made by the wife shortly before her death. The wife said, "He's here. He's going to kill me. It's the defendant." The defense objects on Confrontation Clause grounds. How should the court rule?

- A. Admit the recording under the present sense impression exception
- B. Suppress the recording because the wife cannot be cross-examined
- C. Admit the recording because it is testimonial in nature
- D. Admit the recording under the dying declaration exception

124. A driver was operating his car when he was distracted by a passenger arguing in the back seat. The car drifted into the next lane and collided with another vehicle. The injured driver of the other vehicle sues the first driver and the passenger. What is the most likely result?

- A. The driver is liable but the passenger is not
- B. Both the driver and the passenger are jointly liable
- C. The passenger is liable for distracting the driver, but the driver may also be liable
- D. Only the driver is liable because the driver had the duty to maintain control

125. A federal statute prohibited the importation of any product manufactured by child labor. A defendant was charged with violating the statute after he imported clothing manufactured by children in another country. The defendant argues that he was unaware that the clothing was manufactured by children. How should the court rule?

- A. The defendant is guilty if the statute imposes strict liability without knowledge
- B. The defendant is not guilty if he had no reason to know about the child labor
- C. The defendant is guilty if the prosecution can prove the importation was knowing
- D. The defendant is not guilty because mistake of fact is a defense

126. A buyer ordered 1,000 widgets from a seller at \$30 per widget. The contract specified delivery in two installments of 500 widgets each. The first installment was delivered on time. The second installment was 50 widgets short. The buyer accepted the 450 widgets but indicated that the shortage was unacceptable. What is the buyer's legal right?

- A. The buyer must accept the partial delivery without remedy
- B. The buyer may treat the entire contract as breached
- C. The buyer may keep the 450 widgets and recover damages for the shortage
- D. The buyer must give the seller a reasonable time to cure

127. A defendant was charged with first-degree murder. The defendant raised the affirmative defense of insanity. At trial, the defense called a psychiatrist who testified that the defendant was unable to understand the nature of his acts at the time of the offense. The prosecution sought to introduce evidence that the defendant had made detailed plans to kill the victim several days before the killing. The defense objects. How should the court rule?

- A. Exclude the evidence because it relates to the defendant's mental state
- B. Admit the evidence to show the defendant's character for criminal behavior
- C. Exclude the evidence as more prejudicial than probative
- D. Admit the evidence to rebut the insanity defense by showing capacity to plan

128. A federal court is hearing a case involving claims under both federal and state law. The federal claim has been dismissed on summary judgment. The defendant moves to dismiss the state-law claim for lack of jurisdiction. The state-law claim has been pending for two years. How should the court rule?

- A. The court must dismiss the state-law claim immediately
- B. The court has discretion under 28 U.S.C. § 1367(c) to retain or dismiss the state-law claim
- C. The court must transfer the state-law claim to state court
- D. The court must retain jurisdiction because of the time invested

129. A defendant was charged with attempted robbery. At trial, the prosecution presented evidence that the defendant had purchased a mask, traveled to the targeted bank, and stood outside the bank for several hours. However, the defendant did not actually enter the bank. The defendant argues that mere preparation is insufficient to establish attempt. What is the most likely result?

- A. The defendant is not guilty because he did not enter the bank
- B. The defendant is guilty if the prosecution can prove specific intent
- C. The defendant is guilty because his preparations constituted a substantial step toward the robbery
- D. The defendant is not guilty because he abandoned the attempt

130. A driver was operating his car when he experienced a sudden onset of dizziness. He pulled over to the side of the road and waited for the dizziness to subside. After ten minutes, he felt better and resumed driving. He then experienced another episode of dizziness and lost control of the vehicle, striking a pedestrian. The pedestrian sues for negligence. What is the most likely result?

- A. The driver is liable because he resumed driving despite knowing of the dizziness
- B. The driver is not liable because the medical condition was unforeseeable
- C. The driver is not liable because he attempted to wait it out
- D. The driver is liable only if he had a prior diagnosis of the condition

131. A federal statute required all federal contractors to provide health insurance to their employees. A small business challenged the statute as exceeding Congress's authority. The business operates only within his home state. What is the most likely result?

- A. The statute is unconstitutional because Congress cannot regulate state-only businesses
- B. The statute is constitutional because federal contractors are involved in interstate commerce
- C. The statute is unconstitutional because it requires a private business to provide benefits
- D. The statute is constitutional only if the business has more than 50 employees

132. A buyer and seller entered into a written contract for the sale of a parcel of real estate for \$500,000. The contract included a clause requiring the seller to deliver "marketable title." The seller's deed contained a notation indicating that the property had been previously subject to a mortgage that was paid off five years ago. Is the title "marketable"?

- A. The title is not marketable because the notation indicates a clouded title
- B. The title is marketable because the mortgage was paid off
- C. The title is not marketable until the notation is removed
- D. The title is marketable because notations of past liens do not affect marketability if the lien has been released

133. A defendant was charged with the murder of his neighbor. At trial, the prosecution called the defendant's wife to testify against him. The defendant objects, claiming that the wife cannot be compelled to testify under the spousal privilege. How should the court rule?

- A. The wife cannot be compelled to testify if the defendant objects
- B. The wife can be compelled to testify because spousal privilege does not apply in murder cases
- C. The wife has the privilege to refuse to testify against her husband
- D. The wife must testify because the privilege does not apply to criminal cases

134. A homeowner conveyed her property "to my son for life, then to my brother." Three years later, the brother died, leaving children A and B. Five years after that, the son died. What is the legal effect on the property?

- A. The property passes to the brother's children A and B by representation
- B. The property reverts to the homeowner because the brother died first

- C. The son's life estate continues until his death, regardless of the brother's death
- D. The property passes through the brother's estate

135. A driver was operating his car on a highway when his car was struck by another vehicle that ran a red light at an intersection. The injured driver sued the at-fault driver. At trial, the at-fault driver argued that the first driver should have observed the red light running and taken evasive action. The jurisdiction follows the "last clear chance" doctrine. What is the most likely result?

- A. The first driver is barred from recovery due to his own negligence
- B. The first driver may recover damages despite the at-fault driver's argument because of last clear chance
- C. The first driver may recover only if the at-fault driver was intoxicated
- D. The first driver may recover only nominal damages

136. A federal statute prohibited the discrimination against any person on the basis of national origin in housing. A landlord refused to rent an apartment to an Asian family because of their national origin. The family sues. What is the most likely result?

- A. The landlord is not liable because national origin is not a protected characteristic
- B. The landlord is liable only if the family was specifically targeted
- C. The landlord is not liable if she could have chosen any tenant
- D. The landlord is liable for discrimination based on national origin

137. A defendant was charged with assault. At trial, the defendant claimed self-defense. The prosecution sought to introduce evidence that, two years before the assault, the defendant had been convicted of disorderly conduct. The defense objects. How should the court rule?

- A. Admit the evidence to show the defendant's character for violence
- B. Admit the evidence to rebut the self-defense claim
- C. Exclude the evidence as improper character evidence under Rule 404
- D. Admit the evidence under Rule 609 for impeachment

138. A buyer entered into a written contract to purchase a parcel of real estate from a seller for \$300,000. The contract specified a closing date of March 15. The contract did not include a "time is of the essence" clause. On March 15, the seller could not close because the title company was delayed in delivering the title insurance policy. The seller offered to close on March 25. The buyer refused. What is the most likely result?

- A. The buyer is entitled to terminate the contract because the seller did not perform on time
- B. The seller is entitled to a reasonable extension when "time is of the essence" is not specified
- C. The buyer may sue for specific performance if the seller cannot close
- D. The seller is liable for damages caused by the delay

139. A defendant was charged with the murder of his ex-wife. At trial, the prosecution sought to introduce evidence that the defendant had threatened his ex-wife with bodily harm two weeks before the murder. The defense objects on relevance grounds. How should the court rule?

- A. Exclude the evidence as more prejudicial than probative
- B. Admit the evidence to show the defendant's motive, intent, and absence of mistake
- C. Admit the evidence to show the defendant's character for violence
- D. Exclude the evidence because the threats are too remote in time

140. A driver was operating his car at the speed limit when he struck a pedestrian who was crossing the street. The pedestrian was crossing outside the marked crosswalk. The pedestrian sues the driver for negligence. The driver argues that the pedestrian's failure to cross at the crosswalk constitutes contributory negligence. What is the most likely result?

- A. The pedestrian is barred from recovery in a contributory negligence jurisdiction
- B. The pedestrian's recovery is reduced by the percentage of her contributory fault
- C. The pedestrian may recover full damages because the driver was the proximate cause
- D. The pedestrian's recovery is reduced based on comparative negligence principles

141. A federal statute prohibited the discrimination against any person on the basis of race in employment. An employer refused to hire a qualified African American applicant, claiming that the position required cultural fit with existing employees. The applicant sues. What is the most likely result?

- A. The employer is liable only if discriminatory intent can be proven
- B. The employer is not liable because cultural fit is a legitimate business interest
- C. The employer is liable for racial discrimination, as "cultural fit" cannot justify race-based decisions
- D. The employer is not liable because the position was filled by another employee

142. A defendant was arrested for armed robbery. At the police station, officers gave him Miranda warnings. The defendant invoked his right to counsel. Several hours later, after consulting with his attorney, the defendant requested to speak with the police. The defendant made incriminating statements. He moves to suppress the statements. How should the court rule?

- A. Admit the statements because the defendant initiated the new questioning after consulting with counsel
- B. Suppress the statements because the right to counsel extends to all questioning
- C. Suppress the statements because the police should not have asked about the new crime
- D. Admit the statements only if the new crime is closely related to the original charge

143. A buyer ordered 200 widgets from a seller at \$40 per widget. The contract specified delivery on August 1. On August 1, the seller delivered the 200 widgets, but they were a slightly different model than specified. The buyer immediately notified the seller of the non-conformity and rejected the delivery. The seller offered to cure the defect by delivering the correct widgets. The buyer refused to accept the cure. What is the most likely result?

- A. The buyer must accept the cure and pay the contract price
- B. The buyer must accept the original delivery and recover damages
- C. The buyer is entitled to reject the cure if it is not made within a reasonable time
- D. The buyer must allow the seller a reasonable time to cure

144. A defendant was charged with felony murder after participating in a bank robbery. During the robbery, a bystander was killed by a police officer's bullet aimed at the defendant's accomplice. The

defendant argues that he should not be liable for the death because his accomplice did not pull the trigger. How should the court rule?

- A. The defendant is liable for felony murder regardless of who pulled the trigger
- B. The defendant is liable only if he intended to cause the death
- C. The defendant is liable for second-degree murder, not felony murder
- D. The defendant is not liable under the "agency theory" because the death was caused by the police, not by the felons

145. A federal court is hearing a case involving claims under both federal and state law. The plaintiff has voluntarily dismissed the federal claim. The defendant moves to dismiss the state-law claim for lack of jurisdiction. The state-law claim has been pending for one year, and the parties have already completed discovery. What is the most likely result?

- A. The court must retain jurisdiction because of the time invested
- B. The court must transfer the state-law claim to state court
- C. The court has discretion under 28 U.S.C. § 1367 to retain or dismiss
- D. The court must dismiss the state-law claim immediately

146. A homeowner conveyed her property "to my son and his heirs, but if my son ever uses the property for commercial purposes, then to my daughter and her heirs." Three years later, the son began operating a small business from the property. The daughter immediately demanded possession. What is the legal effect?

- A. The property automatically vests in the daughter upon the son's commercial use
- B. The property remains with the son until the daughter takes legal action
- C. The property reverts to the homeowner because the condition was violated
- D. The condition is void as violating the Rule Against Perpetuities

147. A driver was operating his car at night when he encountered a thick fog bank. Visibility was severely reduced. The driver slowed his car but did not stop. He struck a pedestrian who was walking along the

shoulder of the road. The pedestrian sues for negligence. The driver argues that the fog was unforeseeable. What is the most likely result?

- A. The driver is not liable because the fog was unforeseeable
- B. The driver is liable if he failed to exercise reasonable care under the foggy conditions
- C. The driver is liable for strict liability for operating a vehicle in fog
- D. The driver is not liable because the pedestrian assumed the risk

148. A federal statute prohibited the discrimination against any person on the basis of age in employment for persons over 40. An employer refused to promote a 55-year-old employee, claiming that the position required someone younger to learn new technologies. The employee sues. What is the most likely result?

- A. The employer is not liable because age was not the sole reason
- B. The employer is liable only if the position was filled by someone under 40
- C. The employer is not liable because new technologies require younger workers
- D. The employer is liable for age discrimination against a protected employee

149. A defendant was charged with possession of an illegal weapon. At trial, the prosecution sought to introduce the weapon, which had been recovered from the defendant's home during a search. The search was conducted pursuant to a valid warrant. The defense argues that the warrant was issued without probable cause. The trial court found that the warrant was supported by probable cause. On appeal, what is the most likely standard of review?

- A. The appellate court reviews the warrant's validity de novo
- B. The appellate court accepts the trial court's findings unless there is no factual basis
- C. The appellate court reviews the warrant's validity by reasonable suspicion standard
- D. The appellate court reviews for abuse of discretion

150. A buyer and seller entered into a written contract for the sale of a unique antique vase for \$25,000. The contract specified delivery in 30 days. On the delivery date, the seller informed the buyer that the vase had been broken in shipment and could not be delivered. The buyer sues for specific performance. What is the most likely result?

- A. The court will not order specific performance because the vase is no longer available
- B. The court will award damages equal to the contract price plus any consequential losses
- C. The court will order the seller to find a replacement vase
- D. The court will award punitive damages for the seller's negligence

151. A defendant was charged with possession of stolen property. At trial, the prosecution sought to introduce evidence that the defendant had been seen running from the area of a burglary shortly after it occurred. The defense objects on relevance grounds. How should the court rule?

- A. Exclude the evidence as more prejudicial than probative
- B. Admit the evidence as circumstantial evidence of the defendant's involvement
- C. Admit the evidence to show the defendant's character for criminal behavior
- D. Exclude the evidence because it is too speculative

152. A landlord and tenant entered into a one-year residential lease. After six months, the tenant gave the landlord written notice of his intention to vacate the property. The lease did not include a provision for early termination. The tenant vacated the property. The landlord sues for the remaining rent. What is the most likely result?

- A. The tenant is liable for the full remaining rent
- B. The tenant is liable only if proper notice was not given
- C. The tenant is liable only for damages incurred up to the date of vacation
- D. The tenant is liable for damages the landlord could not have avoided through reasonable mitigation

153. A federal statute required all federal contractors to maintain detailed records of their employment practices. A small business challenged the statute, arguing that it exceeded Congress's authority. The business operates only within its home state. What is the most likely result?

- A. The statute is constitutional because federal contractors are engaged in interstate commerce
- B. The statute is unconstitutional because Congress cannot regulate state-only businesses
- C. The statute is unconstitutional because record-keeping is not commercial activity

D. The statute is constitutional only if the business has more than 50 employees

154. A defendant was charged with the murder of his neighbor. At trial, the prosecution sought to introduce a confession the defendant had made during a custodial interrogation. The defendant had been given Miranda warnings but had not specifically waived his rights. The prosecution argues that the defendant's voluntary participation in questioning constitutes waiver. How should the court rule?

A. Suppress the confession because explicit waiver of rights is required

B. Admit the confession because Miranda warnings remained in effect

C. Admit the confession if the defendant's voluntary participation in questioning constitutes implicit waiver

D. Suppress the confession because all custodial confessions require formal waiver

155. A homeowner contracted with a contractor to install a new heating system for \$8,000. The contractor completed the work, but the heating system was defective and did not provide adequate heat. The homeowner refused to pay, claiming that the work was unsatisfactory. The contractor sues for the contract price. What is the most likely result?

A. The contractor recovers the full contract price because he completed the work

B. The contractor recovers nothing because the heating system did not function properly

C. The contractor recovers the reasonable value of the work performed, minus damages

D. The homeowner must pay the contract price minus the cost to repair the defects

156. A driver was operating his car when he was hit from behind by another vehicle. The driver was seriously injured. He sued the other driver for negligence. At trial, the other driver argued that the first driver had failed to use his seatbelt and that this contributed to his injuries. What is the most likely result?

A. The first driver's failure to use his seatbelt is not relevant to the negligence action

B. The first driver's failure to use his seatbelt bars recovery as contributory negligence

C. The first driver may recover full damages because seatbelt use is not required

D. The first driver's recovery may be reduced based on his failure to use his seatbelt

157. A federal statute prohibited the discrimination against any person on the basis of race, color, religion, sex, or national origin in employment. An employer refused to promote a qualified Hispanic employee, claiming that the position required someone with the existing managerial style. The employee sues. What is the most likely result?

- A. The employer is not liable because the position was filled by another qualified employee
- B. The employer is liable only if the employee can prove discriminatory intent
- C. The employer is liable for discrimination based on national origin if the actual reason was race
- D. The employer is not liable because management style is a legitimate criterion

158. A defendant was charged with the murder of his business partner. At trial, the prosecution sought to introduce a recording of a 911 call made by the victim before her death. The victim said, "He's here. He has a gun. The defendant is going to shoot me." The defense objects. How should the court rule?

- A. Admit the recording under the dying declaration exception
- B. Suppress the recording because it is testimonial
- C. Admit the recording under the present sense impression exception
- D. Suppress the recording because the victim could not be cross-examined

159. A buyer entered into a written contract to purchase a parcel of real estate from a seller for \$200,000. The contract included a clause stating that "time is of the essence" with respect to the closing date. Two weeks before closing, the seller informed the buyer that he needed an additional ten days to clear title. The buyer refused the extension. What is the legal effect?

- A. The buyer is entitled to terminate the contract for breach
- B. The seller is entitled to a reasonable extension despite the clause
- C. The buyer must allow the seller to perform within a reasonable time
- D. The buyer is in breach for refusing to grant the extension

160. A driver was operating his car when his car was struck by a deer that suddenly ran into the road. The driver swerved to avoid the deer and lost control of the vehicle. The car struck another vehicle, injuring

its driver. The injured driver sues for negligence. The defendant driver argues that the deer's sudden appearance was unforeseeable. What is the most likely result?

- A. The driver is liable because all drivers must anticipate animals on rural roads
- B. The driver is not liable if his reaction was reasonable under the sudden emergency
- C. The driver is liable for strict liability for operating a vehicle
- D. The driver is not liable because the deer is a wild animal

161. A federal statute prohibited the discrimination against any person on the basis of religion in employment. An employer refused to hire a qualified Muslim applicant, claiming that the position required someone who could work on Saturdays. The applicant requested an accommodation to observe the Sabbath. The employer denied the request. The applicant sues. What is the most likely result?

- A. The employer is liable for religious discrimination if reasonable accommodation was possible
- B. The employer is not liable because Saturday work is a legitimate business requirement
- C. The employer is liable only if the applicant proved hostility toward his religion
- D. The employer is not liable because religious accommodation is not required

162. A defendant was charged with the murder of his neighbor. At trial, the prosecution called a witness who testified that, two days before the murder, the defendant had said, "I'm going to make sure my neighbor pays for what he did." The defense objects on relevance grounds. How should the court rule?

- A. Admit the statement to show the defendant's intent and absence of mistake
- B. Exclude the statement as more prejudicial than probative
- C. Admit the statement to show the defendant's intent and motive
- D. Exclude the statement because it is too speculative

163. A landlord and tenant entered into a written commercial lease. The lease required the tenant to maintain the property in good condition. After two years, the building's roof began to leak, causing significant damage to the property. The tenant refused to repair the roof, claiming that structural issues are the landlord's responsibility. The landlord sues for breach of contract. What is the most likely result?

- A. The tenant is liable for the repair regardless of structural issues
- B. The tenant is liable only if the lease specifically requires roof repairs
- C. The tenant is not liable because the landlord is responsible for structural issues
- D. The tenant is liable only if the damage was tenant-caused

164. A driver was operating his car on a highway when his car was struck by another vehicle that ran a red light at an intersection. The injured driver sued the at-fault driver. At trial, the at-fault driver argued that the first driver had been distracted by a phone call. The jurisdiction follows pure comparative negligence. What is the most likely result?

- A. The first driver is barred from recovery due to his distraction
- B. The first driver may recover full damages because the at-fault driver ran a red light
- C. The first driver may recover only nominal damages
- D. The first driver may have his recovery reduced by the percentage of his contributory fault

165. A federal court is hearing a case involving claims under both federal and state law. The federal claim has been dismissed for failure to state a claim. The defendant moves to dismiss the state-law claim for lack of jurisdiction. The state-law claim has been pending for two years and the parties have completed extensive discovery. What is the most likely result?

- A. The court may exercise discretion to retain or dismiss the state-law claim under 28 U.S.C. § 1367
- B. The court must dismiss the state-law claim immediately
- C. The court must transfer the state-law claim to state court
- D. The court must retain jurisdiction because of the time invested

166. A defendant was arrested for armed robbery. At the police station, officers gave him Miranda warnings. The defendant did not invoke his right to counsel or remain silent. He answered questions for two hours. During this time, the defendant made several incriminating statements. He moves to suppress the statements, arguing that he was confused and did not understand the warnings. How should the court rule?

- A. Admit the statements because the defendant did not invoke his rights

- B. Suppress the statements because the defendant claimed confusion
- C. Admit the statements if the court finds that the defendant's waiver was voluntary, knowing, and intelligent
- D. Suppress the statements because two hours is too long for voluntary participation

167. A homeowner conveyed her property "to my son for life, then to whichever of my children is alive at the son's death." At the time of the conveyance, the homeowner had three children: the son, a daughter, and another son. The other son died, leaving children A and B. Five years later, the son died, and the daughter is the only surviving child. What is the legal effect on the property?

- A. A and B inherit by representation through the deceased son
- B. The daughter and A and B share the property
- C. The property passes to the homeowner's other heirs
- D. The daughter takes the entire property as the only surviving child

168. A driver was operating his car when he experienced a sudden onset of dizziness. He felt that he could continue driving safely and proceeded for several miles. He then lost control of the vehicle and struck a pedestrian. The pedestrian sues for negligence. What is the most likely result?

- A. The driver is not liable because the dizziness was sudden and unforeseeable
- B. The driver is liable because he should have stopped driving when he felt dizzy
- C. The driver is not liable because he attempted to continue safely
- D. The driver is liable for strict liability for operating a motor vehicle

169. A federal statute prohibited the discrimination against any person on the basis of race, color, religion, sex, or national origin in housing. A landlord refused to rent an apartment to an African American family, claiming that he did not want to lose his existing tenants who were predominantly Caucasian. The family sues. What is the most likely result?

- A. The landlord is not liable because tenant preferences are a personal choice
- B. The landlord is liable only if the family can prove discriminatory intent

- C. The landlord is liable for racial discrimination regardless of tenant preferences
- D. The landlord is not liable because the existing tenants requested the change

170. A defendant was charged with the murder of his neighbor. At trial, the prosecution sought to introduce evidence that the defendant had threatened his neighbor with bodily harm three months before the murder. The defense objects on relevance grounds. How should the court rule?

- A. Admit the evidence to show the defendant's motive, intent, and absence of mistake
- B. Exclude the evidence as more prejudicial than probative
- C. Admit the evidence to show the defendant's character for violence
- D. Exclude the evidence because the threats are too remote in time

171. A buyer and seller entered into a written contract for the sale of a parcel of real estate for \$400,000. The buyer paid a \$40,000 earnest money deposit. The contract was contingent on the buyer obtaining financing within 30 days. The buyer was unable to obtain financing and informed the seller. The seller refused to refund the earnest money. The buyer sues to recover the deposit. What is the most likely result?

- A. The seller retains the deposit because the buyer failed to satisfy the contingency
- B. The buyer recovers the deposit because the financing contingency was not satisfied
- C. The seller retains the deposit if it represents reasonable estimated damages
- D. The buyer recovers the deposit because the contingency excused performance

172. A defendant was charged with possession of an illegal weapon. The defendant argues that the weapon was a family heirloom and that he was unaware of the legal restrictions on its possession. How should the court rule?

- A. The defendant is not guilty if mistake of law applies
- B. The defendant is guilty if the statute requires only possession
- C. The defendant is guilty only if he intended to use the weapon for illegal purposes
- D. The defendant is guilty because mistake of law is generally not a defense

173. A driver was operating his car when his cell phone rang. The driver attempted to answer the phone using a hands-free device. While speaking on the phone, the driver's car drifted out of its lane and collided with another vehicle. The other driver was injured. The injured driver sues the first driver. What is the most likely result?

- A. The driver is liable because hands-free devices do not eliminate distraction
- B. The driver is not liable because hands-free devices are legal
- C. The driver is liable only if he was using his hands
- D. The driver is not liable if the cell phone use was brief

174. A federal statute required all federal employees to undergo annual physical examinations. A federal employee challenged the statute, claiming that it violated his Fourth Amendment rights. The government argued that the examinations were necessary to maintain workplace safety and productivity. What is the most likely result?

- A. The examinations are unconstitutional because they require individualized suspicion
- B. The examinations are constitutional only if they are conducted by trained medical personnel
- C. The examinations are constitutional because the government has a special need beyond ordinary law enforcement
- D. The examinations are unconstitutional because federal employees have privacy expectations

175. A buyer ordered 1,000 widgets from a seller at \$25 per widget. The contract specified delivery on June 1. On May 25, the seller informed the buyer that production had been delayed and delivery would not occur until July 1. The buyer immediately cancelled the contract and purchased substitute widgets from another supplier at \$30 per widget. The buyer sues the original seller for damages. What is the buyer's recovery?

- A. \$30,000 representing the full cost of the substitute widgets
- B. \$5,000 representing the cost of cancellation
- C. \$25,000 representing the original contract price
- D. \$5,000 representing the difference between the contract price and the substitute price

176. A defendant was charged with the murder of his ex-wife. At trial, the prosecution sought to introduce evidence that the defendant had purchased a gun the week before the murder. The defense objects on relevance grounds. How should the court rule?

- A. Exclude the evidence because gun ownership is constitutionally protected
- B. Admit the evidence to show the defendant's preparation, planning, and intent
- C. Exclude the evidence as more prejudicial than probative
- D. Admit the evidence to show the defendant's character for violence

177. A landowner conveyed his property to his son and daughter as joint tenants with right of survivorship. Five years later, the son executed a deed conveying his interest to a third party. The daughter was not informed of the conveyance. What is the legal effect of the son's conveyance on the joint tenancy?

- A. The third party becomes a joint tenant with the daughter
- B. The daughter retains the right of survivorship over the entire property
- C. The joint tenancy is severed and converted to a tenancy in common with respect to the conveyed interest
- D. The son's conveyance is void because the daughter was not informed

178. A driver was operating his car at the speed limit when he was struck by a vehicle running a red light. The other driver was severely injured. The injured driver sued the first driver, claiming that he had been driving too fast for road conditions. The road was wet but not icy. What is the most likely result?

- A. The first driver is not liable because he was driving at the speed limit
- B. The first driver is liable for strict liability for driving in wet conditions
- C. The first driver is liable only if his vehicle was equipped with anti-lock brakes
- D. The first driver is not liable because the at-fault driver ran the red light

179. A federal statute prohibited the discrimination against any person on the basis of disability in any program receiving federal funding. A state university that received federal funding refused to provide accommodations for a student with dyslexia, claiming that accommodations would lower academic standards. The student sues. What is the most likely result?

- A. The university is not liable because academic standards are a legitimate concern
- B. The university is liable for disability discrimination if reasonable accommodation was possible
- C. The university is not liable because students must meet academic standards
- D. The university is liable only if dyslexia prevents all academic activity

180. A defendant was charged with the murder of his neighbor. At trial, the prosecution sought to introduce a confession the defendant had made during a polygraph examination. The polygraph was conducted by a court-appointed examiner. The defense objects. How should the court rule?

- A. Admit the confession because court-appointed examiners are not subject to privilege
- B. Suppress the confession because polygraph evidence is generally inadmissible
- C. Admit the confession because the defendant voluntarily made the statements
- D. Suppress the confession because polygraph examinations are inherently coercive

181. A homeowner contracted with a builder to construct an addition to her house for \$40,000. The contract specified that the work would be completed within 60 days. The builder completed the work in 70 days. The homeowner refused to pay the contract price, claiming that the builder had breached the contract. The builder sues for the contract price. What is the most likely result?

- A. The builder cannot recover anything because of the breach
- B. The builder can recover the full contract price plus damages for the delay
- C. The builder can recover the full contract price minus damages caused by the delay
- D. The builder can recover only the reasonable value of the work performed

182. A driver was operating his car at the speed limit when he was struck by another vehicle that ran a red light. The injured driver sued the at-fault driver. At trial, the at-fault driver argued that the first driver had been distracted by an argument with a passenger. The first driver admitted being distracted but argued that the at-fault driver caused the accident. What is the most likely result?

- A. The first driver's distraction may reduce his recovery in a comparative negligence jurisdiction
- B. The first driver is barred from recovery in a comparative negligence jurisdiction

- C. The first driver may recover only if the at-fault driver was intoxicated
- D. The first driver may recover only nominal damages

183. A federal statute prohibited the discrimination against any person in any place of public accommodation on the basis of race, color, religion, or national origin. A small business refused to provide services to customers of a particular religion, claiming that the business owner's own religious beliefs justified the refusal. The customers sue. What is the most likely result?

- A. The business is not liable if the owner can prove sincere religious objections
- B. The business is liable only if customers can prove they were specifically targeted
- C. The business is not liable because the business owner has religious freedom
- D. The business is liable for religious discrimination by a public accommodation

184. A defendant was charged with assault and battery after a bar fight. The defendant claimed self-defense. At trial, the prosecution sought to introduce evidence that the defendant had been involved in three previous bar fights in the past two years. The defense objects. How should the court rule?

- A. Admit the evidence to show the defendant's character for violence
- B. Admit the evidence to rebut the self-defense claim by showing the defendant was the aggressor
- C. Exclude the evidence as improper character evidence
- D. Exclude the evidence because the prior fights are too remote in time

185. A buyer and seller entered into a written contract for the sale of a residential property for \$400,000. The contract included a financing contingency. The buyer was unable to obtain financing within the specified time. The seller terminated the contract and sold the property to another buyer for \$410,000. The original buyer sues to recover his earnest money deposit. What is the most likely result?

- A. The seller retains the deposit because the buyer failed to satisfy the contingency
- B. The buyer recovers the deposit because the seller benefited from the higher resale price
- C. The buyer recovers the deposit because the financing contingency failed
- D. The seller retains the deposit only if the seller suffered actual damage

186. A driver was operating his car when he experienced a sudden onset of dizziness. He believed he could continue driving safely. Moments later, he lost control of the vehicle and struck a pedestrian. The pedestrian sues for negligence. The driver argues that the medical condition was unforeseeable. What is the most likely result?

- A. The driver is liable because he chose to continue driving despite knowing of the dizziness
- B. The driver is not liable because the medical condition was unforeseeable
- C. The driver is liable for strict liability for operating a vehicle
- D. The driver is not liable because he had no reason to suspect a medical issue

187. A federal court is hearing a case involving claims under both federal and state law. The federal claim has been dismissed for failure to state a claim. The defendant moves to dismiss the state-law claim for lack of jurisdiction. The state-law claim has been pending for three years and discovery has been completed. What is the most likely result?

- A. The court must dismiss the state-law claim immediately
- B. The court may exercise discretion under 28 U.S.C. § 1367(c) to retain or dismiss
- C. The court must transfer the state-law claim to state court
- D. The court must retain jurisdiction because of the time invested

188. A defendant was charged with possession of a controlled substance. At trial, the prosecution sought to introduce the substance, which had been seized during a search of the defendant's car. The defense argues that the search was unlawful. The trial court found that the search was conducted pursuant to a valid warrant and was lawful. On appeal, what is the standard of review?

- A. The appellate court reviews the search's lawfulness de novo
- B. The appellate court accepts the trial court's findings unless there is no factual basis
- C. The appellate court reviews the search by clear and convincing evidence
- D. The appellate court accepts the trial court's findings unless they are clearly erroneous

189. A landlord and tenant entered into a written commercial lease. The lease required the tenant to maintain the property in good condition. After three years, the building's plumbing system began to fail,

causing significant damage. The tenant refused to repair the plumbing, claiming that it was the landlord's responsibility. The landlord sues for breach of contract. What is the most likely result?

- A. The tenant is liable for the repair regardless of structural issues
- B. The tenant is liable only if the lease specifically requires plumbing repairs
- C. The tenant is not liable because plumbing systems are the landlord's responsibility
- D. The tenant is liable only if the damage was tenant-caused

190. A driver was operating his car when his car was struck by a deer that suddenly ran into the road. The driver swerved to avoid the deer and lost control of the vehicle. The car struck another vehicle, injuring its driver. The injured driver sues for negligence. The defendant driver argues that he had no time to react. What is the most likely result?

- A. The driver is not liable if his reaction was reasonable under the sudden emergency
- B. The driver is liable because all drivers must anticipate animals on rural roads
- C. The driver is liable for strict liability for operating a vehicle
- D. The driver is not liable because the deer's appearance was unforeseeable

191. A federal statute prohibited the discrimination against any person on the basis of disability in any program receiving federal funding. A state university that received federal funding refused to allow a student with a service animal to attend classes, claiming that the animal would disrupt the learning environment. The student sues. What is the most likely result?

- A. The university is liable only if the student could attend without the animal
- B. The university is not liable because service animals can be disruptive
- C. The university is liable only if the student proved discriminatory intent
- D. The university is liable for disability discrimination by refusing reasonable accommodation

192. A defendant was charged with the murder of his business partner. At trial, the prosecution sought to introduce a recording of a 911 call made by the victim before her death. The victim said, "He's here. He has a gun. I'm afraid he's going to shoot me." The defense objects on Confrontation Clause grounds. How should the court rule?

- A. Admit the recording under the dying declaration exception
- B. Suppress the recording because the victim cannot be cross-examined
- C. Admit the recording under the present sense impression exception
- D. Suppress the recording because it is testimonial

193. A buyer and seller entered into a written contract for the sale of a parcel of real estate for \$300,000. The contract specified that the seller would deliver "marketable title." Two weeks before closing, the buyer discovered that the property was subject to a 10-foot easement for utility purposes. The seller claims that utility easements are standard for residential property. Is the title "marketable"?

- A. The title is not marketable because all easements impair marketability
- B. The title is marketable because utility easements are standard
- C. The title is not marketable if the easement materially affects the buyer's use
- D. The title is marketable only if the easement is recorded

194. A driver was operating his car at the speed limit when he was struck by another vehicle that ran a red light. The injured driver sued the at-fault driver. At trial, the at-fault driver argued that the first driver had been distracted by a phone call. The first driver admitted being distracted but argued that the at-fault driver caused the accident. The jurisdiction follows the "last clear chance" doctrine. What is the most likely result?

- A. The first driver may recover damages despite the at-fault driver's argument because of last clear chance
- B. The first driver is barred from recovery due to his own negligence
- C. The first driver may recover only if the at-fault driver was intoxicated
- D. The first driver may recover only nominal damages

195. A federal statute required all federal employees to undergo random drug testing. A federal employee challenged the testing as a violation of his Fourth Amendment rights. The government argued that the testing was necessary to maintain workplace safety. The employee was a clerical worker with no public safety responsibilities. What is the most likely result?

- A. The testing is constitutional because federal employees have reduced privacy expectations

- B. The testing is unconstitutional because random testing of clerical workers lacks individualized suspicion
- C. The testing is constitutional because the government has a special need beyond ordinary law enforcement
- D. The testing is unconstitutional because federal employees have privacy expectations

196. A defendant was charged with the murder of his neighbor. At trial, the prosecution sought to introduce evidence that the defendant had purchased a gun the day before the murder. The defense objects on relevance grounds. How should the court rule?

- A. Exclude the evidence because gun ownership is constitutionally protected
- B. Admit the evidence to show the defendant's character for violence
- C. Exclude the evidence as more prejudicial than probative
- D. Admit the evidence to show the defendant's preparation, planning, and intent

197. A buyer ordered 500 widgets from a seller at \$20 per widget. The contract specified delivery within 30 days. On the delivery date, the seller delivered 500 widgets but they were a slightly different model than specified. The buyer immediately notified the seller of the non-conformity and rejected the delivery. The seller offered to cure the defect by delivering the correct widgets. The buyer refused. What is the most likely result?

- A. The buyer is entitled to reject the cure if the seller fails to make a substituted delivery within the original contract time
- B. The buyer must accept the cure and pay the contract price
- C. The buyer must accept the original delivery and recover damages
- D. The buyer must allow the seller a reasonable time to cure

198. A landlord and tenant entered into a written residential lease. The lease required the tenant to pay rent on the first of each month. The tenant fell behind by two months. The landlord changed the locks on the apartment without notice and removed the tenant's belongings. The tenant sues the landlord for wrongful eviction. What is the most likely result?

- A. The landlord is not liable because the tenant was in default
- B. The landlord is not liable because self-help is permitted for nonpayment of rent
- C. The landlord is liable for wrongful eviction because self-help is generally prohibited
- D. The landlord is liable only if the tenant had not received notice

199. A defendant was charged with the murder of his neighbor. At trial, the prosecution sought to introduce a confession the defendant had made during a custodial interrogation. The defendant had been given Miranda warnings but had not explicitly waived his rights. The prosecution argues that the defendant's voluntary participation in questioning constitutes implicit waiver. How should the court rule?

- A. Suppress the confession because explicit waiver is required
- B. Admit the confession if the defendant's voluntary participation constitutes implicit waiver under *Berghuis v. Thompkins*
- C. Admit the confession because Miranda warnings remained in effect
- D. Suppress the confession because all custodial confessions require formal waiver

200. A federal statute prohibited the discrimination against any person on the basis of disability in any program receiving federal funding. A state university that received federal funding refused to provide a sign language interpreter for a deaf student, claiming that the interpretation costs were too high. The student sues. What is the most likely result?

- A. The university is not liable because cost is a legitimate concern
- B. The university is liable only if the student could not afford an interpreter
- C. The university is not liable because interpretation services are not required
- D. The university is liable for disability discrimination by refusing reasonable accommodation

PRACTICE EXAM15:ANSWERS AND EXPLANATON

1. B — UCC § 2-706 measures the seller's damages for buyer's breach as the difference between the contract price and the resale price obtained in a good-faith commercially reasonable resale. \$8,000 contract minus \$7,200 resale equals \$800 in recoverable damages. This formula puts the seller in the position he would have occupied had the buyer performed.

- 2. D** — Federal question jurisdiction under 28 U.S.C. § 1331 covers any claim arising under federal law, including patent claims, regardless of the parties' citizenship. Diversity is not required when the claim itself arises under federal law. The patent statute provides exclusive federal jurisdiction for these claims.
- 3. A** — Under the felony murder rule, all participants in the underlying felony are liable for any death that occurs during its commission, including deaths caused by co-felons. A lookout is a full participant in the felony and shares responsibility for foreseeable deaths. Physical presence at the killing is not required.
- 4. C** — The conveyance creates a fee simple subject to an executory limitation with the son holding an executory interest. Upon the daughter's commercial use, the property automatically divests her interest and vests in the son. No legal action is required for the shifting executory interest to take effect.
- 5. A** — A minor, brief deviation from work for personal needs (often called a "detour" rather than a "frolic") generally remains within the scope of employment. The driver had returned to his assigned route at the time of the accident, restoring him to the scope of employment even if he had briefly detoured. The employer is vicariously liable.
- 6. D** — Under *Berghuis v. Thompkins*, a defendant must unambiguously invoke his right to remain silent. Mere silence in the face of questioning is insufficient to invoke the right; the defendant must make a clear statement. The defendant's two hours of silence followed by voluntary responses indicates waiver, not invocation.
- 7. B** — A state statute that imposes a higher tax or fee on out-of-state corporations than in-state corporations facially discriminates against interstate commerce. Such discrimination is virtually per se invalid under the dormant Commerce Clause. The disparate licensing fees clearly favor in-state commerce.
- 8. C** — A counterclaim is a pleading subject to the same scrutiny as a complaint. Under Federal Rule of Civil Procedure 12(b)(6), a party may move to dismiss any claim, including a counterclaim, for failure to state a claim upon which relief can be granted. The plaintiff has the same procedural tools available against the counterclaim as the defendant had against the complaint.
- 9. D** — At common law, "breaking" requires the use of force, however slight, to gain entry. Entering through a window or door that is already open does not constitute breaking. Without a breaking, the burglary statute's elements are not satisfied, providing the defendant's strongest defense.
- 10. A** — A contractor who has partially performed but is unable to complete may recover the reasonable value of work performed under a quantum meruit theory, less any damages caused by the breach. This restitutionary recovery prevents unjust enrichment while accounting for the homeowner's expectation. The landscaper recovers his earned value reduced by costs of completion.
- 11. C** — Federal Rule of Evidence 404(b) prohibits the use of prior bad acts to prove character or propensity. Three prior traffic citations would impermissibly suggest the defendant has a propensity for traffic violations rather than establishing a regular habit under Rule 406. The evidence is excluded as improper character evidence.

12. B — A landlord who accepts rent from an unauthorized assignee with knowledge of the assignment waives the right to enforce the anti-assignment clause. Six months of accepting rent constitutes clear acceptance of the assignee as the tenant. The doctrine of waiver bars the landlord's later objection.

13. A — Under *Illinois v. Perkins*, Miranda warnings are not required when an undercover agent poses as an inmate, because the defendant is not aware he is being interrogated by law enforcement. Miranda's coercion concerns arise from custodial interrogation by known officers, not from voluntary conversations with apparent peers. The statements are admissible.

14. D — Congress may regulate intrastate activities that, in the aggregate, substantially affect interstate commerce. Water pollution that flows into navigable waters affects interstate commerce by impacting downstream uses, including commercial fishing and shipping. The Clean Water Act's reach to tributaries is constitutional under the Commerce Clause.

15. C — Under 28 U.S.C. § 1367(c)(3), a federal court has discretion to decline supplemental jurisdiction over state-law claims after dismissing all claims over which it had original jurisdiction. Courts typically dismiss without prejudice, allowing refiling in state court. This preserves federalism and the state court's role.

16. B — Evidence of motive is admissible under Federal Rule of Evidence 404(b) as a non-character purpose. Taking out a life insurance policy on the victim shortly before the murder creates a financial motive for the killing. The evidence is highly probative of intent and is admissible to show motive.

17. D — The phrase "so long as" creates a fee simple determinable, which gives the grantor a possibility of reverter. Upon the violation of the condition (ceasing farming), the property automatically reverts to the grantor without any affirmative action. The reversion is automatic by operation of law.

18. A — A sudden, unforeseeable mechanical failure is not negligence if the driver had no reason to anticipate the failure. Regular servicing of a new vehicle provides a defense to liability for an unexpected breakdown. The driver acted reasonably and is not liable.

19. C — Under UCC § 2-601, the perfect tender rule allows a buyer to reject goods that fail in any respect to conform to the contract. Delivery of a different model of widget is a non-conformity entitling the buyer to reject the entire shipment. The seller's right to cure under § 2-508 must be exercised within the contract period.

20. B — Political speech, including criticism of government officials, receives the highest level of First Amendment protection. A statute prohibiting publications that "disparage" government officials is a content-based restriction on core political speech. Such statutes are unconstitutional under *New York Times v. Sullivan* and related cases.

21. A — Under pure comparative negligence, a plaintiff's recovery is reduced by the percentage of her own fault, but is not barred regardless of how high her percentage of fault. The pedestrian's failure to wear visible clothing is contributory negligence that reduces damages proportionally. Recovery is available even if she was largely at fault.

22. C — A present sense impression under Federal Rule of Evidence 803(1) is a statement describing or explaining an event made while perceiving the event or immediately thereafter. The victim's 911 call minutes after the theft describing the defendant's appearance qualifies as a present sense impression. The statement is admissible.

23. D — An easement by necessity arises when property is conveyed without express access to a public way, and access across the grantor's retained land is reasonably necessary for the use of the granted property. The absence of any other route to the public road satisfies the strict necessity requirement at the time of conveyance. The buyer is entitled to an easement by necessity.

24. B — Under the eggshell skull rule, a defendant takes the plaintiff as he finds him and is liable for all foreseeable injuries arising from the negligent act, including injuries that develop later. The brain hemorrhage attributed to the accident is a natural consequence of the negligent collision. The defendant recovers for both immediate and delayed injuries.

25. C — Fraudulent concealment occurs when a seller knows of a material defect, conceals it from the buyer, and the buyer reasonably relies. The seller's knowledge of the moisture problem and mold growth, combined with non-disclosure, constitutes fraudulent concealment. This provides the buyer's best theory for recovery.

26. A — Under *Edwards v. Arizona*, once a defendant invokes the right to counsel during custodial interrogation, police-initiated questioning must cease until counsel is provided or the defendant himself initiates further communication. A different officer approaching the defendant in his cell hours later constitutes police-initiated re-interrogation. The statements must be suppressed.

27. B — Under *Hanna v. Plumer*, the Federal Rules of Evidence apply in federal court even in diversity cases, because they are procedural rules of practice. State evidentiary rules generally do not displace the Federal Rules unless they reflect substantive state policy. The federal rule controls.

28. D — Statements made by a co-conspirator during and in furtherance of the conspiracy are non-hearsay party admissions under Federal Rule of Evidence 801(d)(2)(E). Such statements are also considered non-testimonial under *Crawford v. Washington*, so the Confrontation Clause does not bar their admission. The statements are admissible.

29. A — Diversity jurisdiction under 28 U.S.C. § 1332 requires complete diversity, meaning no plaintiff may share citizenship with any defendant. Because one defendant and the plaintiff are both citizens of New York, complete diversity is lacking. The case must be dismissed.

30. C — Specific performance is the standard remedy when the subject matter of a contract is unique, such that monetary damages cannot adequately compensate the buyer. Vintage cars are considered unique in the same way as real estate. The buyer is entitled to specific performance.

31. B — Under *Massiah v. United States*, the Sixth Amendment right to counsel attaches at formal charging, and the government cannot deliberately elicit incriminating statements from a charged defendant without counsel present. Using a cellmate-informant to engage the defendant in conversation violates this right. The statements must be suppressed.

32. D — Most jurisdictions impose a duty on landlords to mitigate damages by making reasonable efforts to re-rent the property after the tenant's breach or abandonment. The landlord can only recover damages he could not have avoided through reasonable mitigation. Failure to attempt re-renting limits the landlord's recovery.

33. A — Title II of the Americans with Disabilities Act validly abrogates state sovereign immunity for claims of disability discrimination by state entities receiving federal funds, as Congress acted pursuant to its Section 5 powers under the Fourteenth Amendment. The state university accepted federal funds, subjecting it to the statute. The Eleventh Amendment does not bar the claim.

34. C — Federal Rule of Evidence 413 permits the admission of evidence of prior sexual assault offenses in sexual assault prosecutions, departing from the general Rule 404 prohibition on propensity evidence. The court must conduct a Rule 403 balancing analysis. The evidence is admissible if the probative value is not substantially outweighed by unfair prejudice.

35. B — A driver is held to the standard of reasonable care under the circumstances, including adverse weather conditions. If the driver slowed his speed and exercised reasonable care given the blizzard conditions, he is not liable for the unavoidable accident. Hitting black ice despite reasonable precautions does not establish negligence.

36. D — Congress may regulate intrastate activities that, in the aggregate, substantially affect interstate commerce. Business record-keeping requirements support federal tax collection, which substantially affects interstate commerce through aggregation. The statute is constitutional under *Wickard v. Filburn* principles.

37. C — Under UCC § 2-712, the buyer's cover damages are the difference between the cost of cover and the contract price. $\$25$ (substitute) - $\$20$ (contract) = $\$5$ per part \times 500 parts = $\$2,500$. This places the buyer in the position he would have occupied had the seller performed.

38. A — Voice identification testimony is admissible under Federal Rule of Evidence 901(b)(5) if the witness has personal knowledge of the speaker's voice based on prior contact. The witness's familiarity with the defendant's voice from previous interactions provides the foundation for the identification. Voice identification is properly authenticated.

39. D — In a joint tenancy with right of survivorship, the surviving joint tenant takes the entire property upon another joint tenant's death by operation of law. The son's will cannot devise an interest that ceased to exist at his death. The daughter takes the entire property by survivorship.

40. B — Federal Rule of Evidence 404(b) prohibits the use of prior bad acts to show character or propensity. Evidence of the driver's two prior accidents involving pedestrians is improper character evidence offered to show negligent propensity. The evidence is excluded under Rule 404.

41. C — When a defendant raises an insanity defense and places his mental state in issue, he waives the patient-psychiatrist privilege as to relevant communications. The defendant cannot use the privilege as both a sword and a shield. The prosecution may inquire about statements relevant to the asserted mental state.

- 42. A** — A "time is of the essence" clause makes timely performance a material element of the contract. The buyer's failure to obtain financing by closing date constitutes a breach that justifies the seller's termination of the contract. The seller need not grant an extension when time is of the essence.
- 43. D** — Under the sudden emergency doctrine, a driver is judged by the standard of reasonable care under emergency circumstances. If the driver's reaction to the deer was reasonable under the sudden emergency, he is not liable for the resulting accident. The doctrine accounts for the limited time available to make decisions.
- 44. B** — Congress has plenary authority over foreign commerce under the Foreign Commerce Clause. Restrictions on the importation of goods produced by child labor are well within this power. The Equal Protection challenge fails because importers are not a suspect class and the regulation has a rational basis.
- 45. C** — Under Federal Rule of Civil Procedure 56, denial of summary judgment is reviewed de novo on appeal based on the summary judgment record at the time of the motion. The appellate court determines independently whether genuine disputes of material fact existed. Subsequent trial events do not affect this analysis.
- 46. A** — An employer is vicariously liable for an employee's torts committed within the scope of employment. An intentional assault during an argument is generally considered outside the scope of employment, as it does not advance the employer's business interests. The landlord avoids liability under this defense.
- 47. B** — Under *Massiah v. United States*, the Sixth Amendment right to counsel attaches at formal indictment, even before arrest. Government deliberate elicitation of incriminating statements without counsel present violates this right. The recorded conversation with the undercover officer must be suppressed.
- 48. D** — A financing contingency in a real estate contract is a condition precedent to the buyer's obligation to close. Failure to satisfy the contingency through no fault of the buyer excuses performance and entitles the buyer to recover the earnest money deposit. The seller cannot retain the deposit when the contingency fails.
- 49. A** — Federal Rule of Evidence 609 limits impeachment by conviction to certain prior convictions, and arrests without convictions are generally inadmissible as character evidence under Rule 404(b). A prior arrest not resulting in conviction lacks the reliability required for admission. The evidence is excluded.
- 50. C** — Economic regulations are subject to rational basis review, requiring only that the regulation be rationally related to a legitimate government interest. A 5-cent bag fee is a reasonable economic regulation, even if it implicates some compelled economic activity. The retailer's First Amendment challenge fails.
- 51. D** — The patient-physician privilege does not apply when a plaintiff places her medical condition at issue by seeking damages for personal injuries. The pedestrian's request for damages for her injuries waives the privilege as to records related to those injuries. The driver is entitled to production of the relevant medical records.

52. B — A contingent remainder is one that may vest only upon the happening of a specified condition. The daughter's interest was contingent on the son failing to make a will designating a beneficiary. Upon the son's death without making such a will, the daughter's contingent remainder vests and she takes the property.

53. C — Under Federal Rule of Evidence 803(6), business records are admissible as a hearsay exception when made in the regular course of business, by someone with personal knowledge, and at or near the time of the events recorded. A custodian or other qualified witness can lay the foundation. The accountant's unavailability does not preclude admission if proper foundation is established by another qualified witness.

54. A — Reaching for a cell phone while operating a motor vehicle diverts attention from driving and constitutes negligence as a matter of law in most jurisdictions. The driver's conscious choice to attend to the phone instead of the road breached the duty of care owed to other motorists. The momentary nature of the distraction does not excuse the negligent conduct.

55. D — The Due Process vagueness doctrine requires that statutes provide reasonable notice of prohibited conduct to ordinary persons. A statute prohibiting "certain types of firearms" must be sufficiently clear that the defendant could have known the prohibition applied to him. Specific knowledge of the law's application may be relevant to the vagueness analysis as it applies to particular conduct.

56. B — Fraudulent misrepresentation requires a knowingly false statement of material fact intended to induce reliance, on which the party justifiably relied to her detriment. Misrepresenting the mileage on a used car satisfies all elements of fraudulent misrepresentation. The buyer's best theory provides remedies including rescission and damages.

57. C — A trial court's findings on the voluntariness of a Miranda waiver are factual findings subject to deferential review on appeal. The appellate court accepts the trial court's findings unless clearly erroneous, while reviewing the ultimate legal conclusion de novo. The clear-error standard governs the factual findings.

58. A — A shared driveway between two properties typically creates implied easements of access for both owners. The neighbor's parking of commercial trucks that blocks the homeowner's access interferes with the implied easement. The homeowner is entitled to an injunction to prevent the interference with her easement rights.

59. B — When a defendant introduces character evidence through a witness, the prosecution may cross-examine that witness about specific instances of conduct that are relevant to the character trait introduced. The defense's witness testifying to peaceful character opens the door to cross-examination about the prior punching incident. The objection is properly overruled.

60. D — A driver has a duty to exercise reasonable care under all circumstances, including adverse weather conditions like fog. The driver's slowing of his speed may not have been sufficient under the foggy conditions if a pedestrian was struck. Whether reasonable care was exercised is a question for the jury.

61. C — Title VII prohibits employment discrimination based on race regardless of the employer's underlying business motivation. Concerns about losing clientele are not a legitimate non-discriminatory reason for refusing to hire a qualified minority applicant. Such concerns are typically used as pretexts for unlawful discrimination.

62. A — Marketable title requires title that is free of reasonable doubt and that an ordinary buyer would willingly accept. A tax lien that can be satisfied at closing using the sale proceeds does not render title unmarketable, as the buyer would receive clear title at closing. The seller can deliver marketable title by paying the lien.

63. D — Evidence of statements made many months before the alleged crime can be excluded as too remote in time if the connection between the statement and the crime is too attenuated. While statements of intent can be relevant, the six-month gap raises concerns about the statement's probative value. The court may exclude under Rule 403.

64. B — Some jurisdictions historically permitted landlord self-help when the lease expressly authorized it or when the tenant clearly abandoned the premises through default. Where the tenant has materially breached by extended nonpayment, peaceful self-repossession may be permitted under traditional common law in some narrow circumstances. Modern law has largely abandoned this approach.

65. C — The maxim "ignorance of the law is no excuse" generally precludes mistake of law as a defense to criminal liability. The defendant's lack of awareness of the registration requirement does not relieve him of criminal responsibility for possessing an unregistered firearm. Limited exceptions apply only when the statute expressly requires knowledge of the law.

66. A — Under *Skinner v. Railway Labor Executives' Association*, the government has a "special need" for drug testing of federal employees that outweighs individualized suspicion requirements in certain contexts. Random testing of federal employees serves substantial governmental interests in maintaining workplace safety and integrity. The testing is constitutional under this special needs doctrine.

67. B — A motion to quash or for a protective order under Federal Rule of Civil Procedure 26(c) requires the moving party to show good cause for restricting discovery. The defendant must demonstrate that the deposition would cause undue burden, harassment, or other recognized harm. The court grants the motion only upon this showing.

68. D — Attempt requires specific intent to commit the underlying crime and an overt act constituting a substantial step toward completion. Purchasing a weapon, researching the victim's routine, and traveling to the victim's home constitute substantial steps beyond mere preparation. The defendant's actions satisfy the attempt elements regardless of whether he completed the attack.

69. A — A clear return/refund clause in a contract creates a contractual right of the buyer to rescind within the specified period. The buyer exercised this right within 25 days of the 30-day return period. The buyer is entitled to return the car and recover the purchase price under the express contractual provision.

70. C — A class gift to "his children" is a vested remainder subject to open. The first child has a vested remainder subject to open in fee simple, and when subsequent children are born, the class opens and includes them. The first child's interest is diluted by the second child's birth but is not extinguished.

71. B — Uninsured motorist coverage typically protects insureds from drivers who lack insurance or who cannot be identified, including hit-and-run drivers. The driver's inability to identify the hit-and-run driver does not preclude recovery under uninsured motorist coverage. The coverage is designed for precisely these situations.

72. D — When federal and state laws coexist on the same subject, both may apply unless Congress has expressly preempted state law or implicit preemption occurs. The federal pesticide statute and state pesticide regulations may operate together without conflict. Both regulations remain valid unless a direct conflict exists.

73. C — Under Federal Rule of Evidence 609(a)(2), a witness's conviction for a crime involving a dishonest act, including theft, is admissible to impeach the witness's credibility. The theft conviction is admissible for impeachment purposes regardless of whether it shows bias. The objection is properly overruled.

74. A — An employer is vicariously liable for an employee's torts committed within the scope of employment. An employee driving while intoxicated in violation of company policy and law is generally considered to be acting outside the scope of his employment. The corporation's strongest defense is that the intoxicated driving was a personal frolic.

75. D — A contractual termination clause that allows the buyer to terminate within a specified period is binding on both parties. The buyer validly exercised the termination right on day 12, within the allowed 14-day period. The seller must refund the earnest money deposit as required by the contract.

76. B — Possession of stolen property requires that the defendant knew or had reason to know that the property was stolen. The jury must find this knowledge element beyond a reasonable doubt, but the prosecution may prove knowledge through circumstantial evidence. The defendant's possession shortly after the burglary supports this element.

77. C — Congress has authority under the Commerce Clause to regulate the possession of firearms by convicted felons, applying to all felony convictions regardless of whether they involved violence. The federal felon-in-possession statute (18 U.S.C. § 922(g)) is a constitutional exercise of commerce clause authority. The statute applies to tax evasion convictions.

78. A — Under the modern approach, a contract modification supported by unforeseen difficulties is enforceable even without additional consideration, particularly in good faith. UCC § 2-209 and the Restatement (Second) of Contracts § 89 generally permit good faith modifications based on unanticipated circumstances. The homeowner's written agreement to pay the additional \$3,000 is binding.

79. D — A dying declaration is admissible under Federal Rule of Evidence 804(b)(2) when the declarant believed death was imminent and the statement concerned the cause or circumstances of the impending

death. The victim's identification of the defendant immediately before death qualifies as a dying declaration. The statement is admissible despite Confrontation Clause concerns.

80. B — Under the sudden emergency doctrine, a driver is not liable when an unforeseeable event causes an accident, provided the driver acted reasonably under the circumstances. A deer's sudden appearance is generally considered an unforeseeable event creating an emergency. The driver's loss of control while attempting to avoid the deer is excused by the sudden emergency doctrine.

81. C — Title VII prohibits sex discrimination in employment unless the employer can establish a bona fide occupational qualification (BFOQ). Physical strength may constitute a BFOQ if it is reasonably necessary to the essential job functions. The employer must prove the BFOQ defense, but if successful, the discrimination is permissible.

82. A — Denial of summary judgment is reviewed de novo on appeal, based on the record existing at the time of the summary judgment motion. The appellate court does not consider events at trial in reviewing whether genuine disputes of material fact existed at summary judgment. The standard is independent of the trial outcome.

83. B — Federal Rule of Evidence 404(b) prohibits the use of prior bad acts to show character or propensity. Evidence of the defendant's prior assault on his ex-wife is improper character evidence offered to show violent disposition. The evidence is excluded as improper character evidence.

84. D — Under modern law and most state statutes, adopted children are treated the same as biological children for purposes of class gifts unless the grantor's intent indicates otherwise. The adopted child shares with the biological child as the son's children. The conveyance includes all children, biological or adopted, of the son.

85. C — A driver maintaining the speed limit who is struck by another driver running a red light generally has no duty to anticipate the other driver's traffic violation. The first driver's failure to take evasive action does not constitute contributory negligence in this context. The second driver's running of the red light is the proximate cause of the accident.

86. A — Under 28 U.S.C. § 1367(c)(3), a federal court has discretion to decline supplemental jurisdiction over state-law claims after dismissing the federal claim. Courts typically dismiss without prejudice to allow refiling in state court. This preserves federalism and respects the state court's role in adjudicating state-law issues.

87. D — A police officer's testimony based on personal knowledge of the transactions, supported by contemporaneous notes, is admissible non-hearsay testimony. The officer testifies from his own observations, even if he uses notes to refresh recollection. The testimony is admissible.

88. B — Under the doctrine of substantial performance, a contractor who has substantially completed the work is entitled to the contract price minus damages caused by the breach. Completing the work 10 days late constitutes substantial performance, not a material breach. The homeowner may recover damages for the delay but cannot withhold the entire contract price.

89. C — When a defendant places his mental state at issue by raising an insanity defense, he waives the patient-psychiatrist privilege regarding court-appointed psychiatric evaluations. The defendant cannot raise an insanity defense and then prevent inquiry into communications relevant to that defense. The statements are admissible.

90. A — A driver in a residential neighborhood has a heightened duty of care because of the foreseeability of children entering the roadway. Driving at the posted speed limit does not necessarily satisfy this duty if the conditions require greater caution. The driver may be liable despite driving within the speed limit.

91. B — Title II of the Civil Rights Act of 1964 prohibits discrimination in places of public accommodation based on religion. A private business that holds itself out as a public accommodation cannot discriminate against customers based on religion regardless of the owner's personal religious beliefs. The business is liable for the religious discrimination.

92. D — Marketable title does not require that title insurance be delivered before closing, as title insurance is a separate matter from title quality. The seller's offer to provide the policy at closing is sufficient to deliver marketable title. The buyer's objection lacks merit.

93. C — Under *Michigan v. Mosley*, police must "scrupulously honor" a defendant's invocation of the right to remain silent. Continuing questioning for 30 minutes after the invocation violates this requirement. Statements made after the invocation must be suppressed.

94. A — Under the doctrine of representation, when a class member dies before the prior estate ends, the deceased class member's descendants take by representation. X and Y inherit A's interest as A's descendants, sharing in the property along with B. The class includes all surviving children and the representatives of deceased children.

95. D — A driver who is aware of an impairment, such as dizziness, and chooses to continue driving may be found negligent. The driver's continued driving despite the impairment imposes a duty to stop safely, which he breached by continuing despite the dizziness. The driver is liable for the resulting accident.

96. B — The Fair Housing Act prohibits discrimination in housing based on national origin. The landlord's refusal to rent based on the family's Latino identity violates this federal statute. The landlord is liable for discrimination based on national origin.

97. C — Diversity jurisdiction under 28 U.S.C. § 1332 requires complete diversity and an amount in controversy exceeding \$75,000. Both requirements are satisfied with the Florida-Georgia parties and \$100,000 contract. The court has subject matter jurisdiction over the case.

98. A — Evidence is excluded if it is more prejudicial than probative under Rule 403. The defendant's gun purchase three months before an assault has limited probative value for self-defense, while creating substantial risk of unfair prejudice based on lawful constitutional activity. The evidence is properly excluded.

99. B — The conveyance creates a fee simple subject to an executory limitation, with the daughter holding an executory interest. The daughter's interest automatically vests when the son uses the property for commercial purposes. No legal action is required for the shifting executory interest to take effect.

100. D — A driver has a duty to maintain attention while operating a motor vehicle. Adjusting the radio while driving constitutes a breach of that duty if it causes the driver to be inattentive. The driver is liable for the resulting accident caused by his distraction.

101. A — Miranda warnings are required only for custodial interrogation by state actors. A cellmate who is not acting as a government informant is not a state actor, and statements made to such a person do not implicate Miranda. The confession is admissible regardless of the absence of Miranda warnings.

102. D — Under 28 U.S.C. § 1367(c), federal courts have discretion to retain or dismiss state-law claims after dismissal of the federal claim. The factors considered include judicial economy, convenience, fairness, and comity. The court has discretion based on these factors.

103. C — The use of deadly force in self-defense or defense of dwelling is justified if reasonable under the circumstances. The reasonableness of the use of force depends on the threat perceived, the timing, and other factors. The defendant is not guilty if his use of deadly force was reasonable.

104. B — Under UCC § 2-612, an installment contract breach may give the buyer the right to cancel future installments if the breach substantially impairs the value of the entire contract. The seller's partial delivery and indication of future delivery may constitute a breach of the installment contract. The buyer may treat the partial delivery as a material breach.

105. A — The validity of a search warrant is a mixed question of law and fact reviewed de novo by appellate courts. The probable cause determination requires independent review of the totality of circumstances. The court reviews the warrant's validity de novo on appeal.

106. C — Under the doctrine of representation, when a class remainder beneficiary dies before the prior estate ends, the deceased beneficiary's descendants take by representation. A and B inherit the daughter's interest as her descendants. The property passes through representation upon the son's death.

107. D — The Age Discrimination in Employment Act (ADEA) prohibits age discrimination in employment for persons over 40. The applicant is over 40 years old and was refused the position based on age. The employer is liable for age discrimination under the ADEA.

108. B — Under Federal Rule of Evidence 801(d)(2)(E), statements made by a co-conspirator during and in furtherance of the conspiracy are non-hearsay party admissions. The co-conspirator's statements are admissible as non-hearsay despite the co-conspirator's refusal to testify. The defendant's objection is properly overruled.

109. A — A driver is liable for damages caused by the negligent maintenance of his vehicle if he had reason to know of the defect. If the driver had no reason to know about the defective brakes, he is not negligent for operating the vehicle. The driver's lack of knowledge provides a defense.

110. C — The implied warranty of habitability or the express terms of a lease may permit a tenant to withhold rent based on the landlord's breach of duty to maintain the premises. The tenant's reduced rent payments may be justified by the landlord's failure to repair significant structural damage. The tenant may withhold rent based on the landlord's breach.

111. D — A voluntary confession made during a polygraph examination is generally admissible if the underlying interview was voluntary, even though polygraph results themselves are typically inadmissible. The defendant's voluntary participation in the polygraph at his own request supports the admissibility of the resulting confession. The confession is admissible.

112. B — Utility easements that do not materially interfere with the buyer's use of the property generally do not render title unmarketable. A 5-foot utility easement is typical for residential property and does not impair marketable title. The seller can deliver marketable title.

113. C — Under Federal Rule of Evidence 609, prior convictions are admissible for impeachment only if they are within 10 years of release from confinement, unless the probative value substantially outweighs prejudice. A 12-year-old conviction is too remote without a showing of substantial probative value. The evidence is excluded as too remote in time.

114. A — A class gift to "his children" creates a vested remainder subject to open. The first child's interest is vested at the time of birth but subject to open if additional children are born. The child holds a vested remainder subject to open in fee simple.

115. D — The ADA and Rehabilitation Act require employers and government agencies receiving federal funds to provide reasonable accommodations for qualified individuals with disabilities. A deaf applicant who can perform essential job functions with reasonable accommodation must be hired. The agency is liable for refusing to provide such accommodation.

116. B — Under *Edwards v. Arizona*, once a defendant invokes the right to counsel, the police cannot initiate further questioning. However, the defendant himself may initiate further communication, particularly after consulting with counsel. The defendant's initiation of the new questioning after consulting with counsel waives the prior invocation.

117. C — A financing contingency in a real estate contract is a condition precedent to the buyer's obligation to close. Failure to satisfy the contingency through no fault of the buyer entitles the buyer to recover the earnest money deposit. The extension period does not bind the buyer to forfeit the deposit when financing fails.

118. A — A manager's testimony about the defendant's stay or service usage is admissible if based on personal knowledge of business records and operations. The manager testifies from her own knowledge of the cable company's records and the defendant's account. The testimony is admissible.

119. D — Even hands-free cell phone use can constitute distracted driving if it diverts the driver's attention from the road. The driver's attention to the cell phone caused his car to drift, breaching the duty of care owed to the pedestrian. The driver is liable for the negligence.

120. B — Under 28 U.S.C. § 1367(c)(3), federal courts have discretion to decline supplemental jurisdiction over state-law claims after dismissing the federal claim. Courts typically dismiss without prejudice to allow refiling in state court, respecting federalism. The state-law claim is most likely dismissed.

121. C — Chain of custody establishes that evidence is what its proponent claims it to be and has not been altered. The prosecution must establish a sufficient chain of custody as part of authenticating the evidence under Rule 901. Failure to establish the chain of custody may result in exclusion of the evidence.

122. A — Under the doctrine of substantial performance, a contractor who has substantially completed the work is entitled to the contract price. The contractor's burden is to prove substantial performance, after which the homeowner bears the burden of proving damages from any defects. The contractor must prove substantial performance.

123. D — A dying declaration under Federal Rule of Evidence 804(b)(2) is admissible when the declarant believed death was imminent and the statement concerned the cause or circumstances of the impending death. The wife's statement immediately before her death qualifies as a dying declaration. The statement is admissible despite Confrontation Clause concerns.

124. B — In some jurisdictions, a passenger who substantially distracts the driver may be jointly liable for the resulting accident under negligence principles. The passenger's distracting behavior contributed to the loss of vehicle control, supporting joint liability with the driver. Both parties may be liable to the injured driver.

125. A — Federal statutes regulating commercial activity often impose strict liability without requiring knowledge of the prohibited conduct. The defendant's lack of knowledge about the child labor origin of the goods does not provide a defense if the statute imposes strict liability. The statute's purpose of protecting children typically supports strict liability.

126. C — When a buyer accepts a partial delivery, she may keep the goods and recover damages for the shortage under UCC § 2-714. The buyer's indication that the shortage was unacceptable preserves her right to damages. The buyer can keep the 450 widgets and recover damages for the missing 50.

127. D — Evidence of the defendant's detailed planning is relevant to rebut an insanity defense by demonstrating the defendant's capacity to plan and form intent. The evidence shows that the defendant was aware of his actions and able to plan, contrary to the insanity claim. The evidence is admissible to rebut the defense.

128. B — Under 28 U.S.C. § 1367(c)(3), federal courts have discretion to retain or dismiss state-law claims after dismissal of the federal claim. The factors include judicial economy, convenience, fairness, and comity. The court's discretion under the statute governs the disposition.

129. C — Attempt requires specific intent and an overt act constituting a substantial step toward completion of the underlying crime. The defendant's purchase of a mask, travel to the bank, and presence outside the bank constitute substantial steps beyond mere preparation. The defendant is guilty of attempted robbery.

130. A — A driver who is aware of an impairment and chooses to continue driving is generally found negligent. The driver's resumption of driving despite the dizziness, knowing of its potential to cause loss of control, breached the duty of care. The driver is liable for the resulting accident.

131. B — Federal contractors are engaged in interstate commerce and are subject to congressional regulation under the Commerce Clause. The federal statute requiring contractors to provide health insurance is a valid exercise of commerce power. The statute is constitutional.

132. D — Marketable title does not require that historical records be cleared of all references to past, satisfied encumbrances. A notation of a mortgage that has been paid off does not render title unmarketable, particularly when the lien has been formally released. The seller can deliver marketable title.

133. C — The marital communications privilege protects communications made during the marriage, and the spousal testimony privilege allows a spouse to refuse to testify against the other spouse. In most jurisdictions, the wife has the privilege to refuse to testify against her husband. The objection should be sustained.

134. A — When a class member with a vested remainder dies before the prior estate ends, the deceased member's descendants take by representation under the doctrine of representation. A and B inherit the brother's interest as his descendants. The property passes through representation upon the son's death.

135. B — Under the last clear chance doctrine, a plaintiff may recover despite his own contributory negligence if the defendant had the last opportunity to avoid the accident. The at-fault driver's running of the red light created the immediate hazard. The first driver may recover despite any minor negligence on his part.

136. D — The Fair Housing Act prohibits discrimination in housing based on national origin. The landlord's refusal to rent based on the family's Asian national origin violates this federal statute. The landlord is liable for discrimination.

137. C — Federal Rule of Evidence 404(b) prohibits the use of prior bad acts to show character or propensity. A disorderly conduct conviction is improper character evidence offered to show violent disposition. The evidence is excluded as improper character evidence.

138. A — When the contract does not include a "time is of the essence" clause, a party generally has a reasonable time to perform. However, the buyer is entitled to terminate if the seller materially breaches by failing to perform on the agreed date. The buyer's refusal of the extension is reasonable given the contract terms.

139. B — Evidence of prior threats by the defendant against the victim is admissible under Federal Rule of Evidence 404(b) to show motive, intent, and absence of mistake. Prior threats are highly probative of the defendant's state of mind toward the specific victim. The evidence is admissible for these non-character purposes.

140. D — In comparative negligence jurisdictions, a pedestrian's failure to cross at a marked crosswalk may reduce damages based on her percentage of fault. The pedestrian's recovery is not barred but is reduced by her contributory fault. The comparative negligence principles govern the recovery.

141. C — Title VII prohibits employment discrimination based on race regardless of the employer's stated business reason. Claims of "cultural fit" may be pretextual cover for racial discrimination. The employer is liable for racial discrimination if the actual reason for the refusal was the applicant's race.

142. A — Under *Edwards v. Arizona*, the defendant himself may initiate further communication after invoking the right to counsel, particularly after consulting with counsel. The defendant's request to speak with the police about a different crime, made after consulting with counsel, waives the prior invocation. The statements are admissible.

143. B — Under UCC § 2-508, a seller may cure a non-conformity if the cure can be made within the original contract time. If the seller cannot cure within the original contract period, the buyer is entitled to reject the original delivery and the cure. The buyer's rejection is valid if the cure is untimely.

144. D — Under the "agency theory" of felony murder, a defendant is only liable for deaths caused by his own actions or those of his co-felons acting in furtherance of the felony. Most modern jurisdictions reject liability for deaths caused by police or victims responding to the felony. The defendant is not liable for the death caused by the police officer.

145. C — Under 28 U.S.C. § 1367(c), federal courts have discretion to retain or dismiss state-law claims after dismissal of the federal claim. The factors include judicial economy, convenience, fairness, and comity, with completed discovery weighing toward retention. The court has discretion to retain or dismiss.

146. A — The conveyance creates a fee simple subject to an executory limitation, with the daughter holding an executory interest. The daughter's interest automatically vests in possession when the son uses the property for commercial purposes. No affirmative action is required.

147. B — A driver has a duty to exercise reasonable care under all circumstances, including adverse weather conditions like fog. The driver's slowing of his speed may not have been sufficient under the foggy conditions if a pedestrian was struck. Whether reasonable care was exercised is a question for the jury.

148. D — The ADEA prohibits age discrimination in employment for persons over 40. The 55-year-old employee is in the protected class and was denied promotion based on age. The employer is liable for age discrimination under the ADEA.

149. C — A search warrant's validity is reviewed on appeal under a totality of circumstances standard. The appellate court generally accepts the trial court's factual findings unless clearly erroneous and reviews the legal conclusion under the totality of circumstances. Reasonable suspicion is not the operative standard for warrants; probable cause is.

150. A — Specific performance requires the existence of the subject matter of the contract. If the unique antique vase has been destroyed and cannot be replaced, specific performance is not available. The court will award damages instead.

151. B — Circumstantial evidence is admissible if it tends to make a fact of consequence more or less probable. Evidence that the defendant was running from the area shortly after a burglary is circumstantial evidence of his involvement. The evidence is admissible to show involvement.

152. D — Most jurisdictions impose a duty on landlords to mitigate damages by making reasonable efforts to re-rent the property after the tenant's breach. The tenant's liability is limited to damages that the landlord could not have avoided through reasonable mitigation. The landlord's failure to attempt re-renting reduces the recovery.

153. A — Federal contractors are engaged in interstate commerce and are subject to congressional regulation. The federal statute requiring federal contractors to maintain employment records is a valid exercise of commerce power. The statute is constitutional.

154. C — Under *Berghuis v. Thompkins*, a defendant's voluntary participation in custodial interrogation after receiving Miranda warnings may constitute an implicit waiver of his rights. The defendant's continued answering of questions without invocation of his rights supports implicit waiver. The confession is admissible.

155. B — A contractor who has not substantially performed has not earned the contract price. The defective heating system that does not provide adequate heat fails to provide the homeowner with what was bargained for. The contractor cannot recover the contract price for unsatisfactory work.

156. D — In most jurisdictions, the failure to wear a seatbelt may reduce a plaintiff's damages by the percentage attributable to that failure under the "seatbelt defense" or comparative negligence principles. The first driver's failure to wear a seatbelt may reduce his recovery in a comparative negligence jurisdiction. The recovery is reduced but not barred.

157. C — Title VII prohibits employment discrimination based on national origin and race. Claims of "managerial style" may be pretextual cover for race or national origin discrimination. The employer is liable if the actual reason was the employee's protected characteristic.

158. A — A dying declaration under Federal Rule of Evidence 804(b)(2) is admissible when the declarant believed death was imminent and the statement concerned the cause or circumstances of the impending death. The victim's identification of the defendant immediately before death qualifies as a dying declaration. The statement is admissible despite Confrontation Clause concerns.

159. D — A "time is of the essence" clause makes timely performance a material element of the contract. The seller's request for additional time after the closing date is a breach when time is of the essence. The buyer is in breach for refusing a reasonable extension only when time is not of the essence; here, refusal is justified.

160. B — Under the sudden emergency doctrine, a driver is not liable when an unforeseeable event causes an accident, provided the driver acted reasonably under the circumstances. A deer's sudden appearance is an unforeseeable emergency. The driver's loss of control while reasonably attempting to avoid the deer is excused.

161. A — Title VII requires employers to provide reasonable religious accommodations unless doing so would cause undue hardship to the employer. The employer's refusal to accommodate the Muslim applicant's Sabbath observance violates Title VII if reasonable accommodation was possible. The employer is liable for religious discrimination.

162. C — Statements by the defendant before the crime expressing intent to harm the victim are admissible to show intent, motive, and absence of mistake under Federal Rule of Evidence 404(b). The defendant's statement two days before the murder is highly probative of his intent. The evidence is admissible for these non-character purposes.

163. B — Commercial leases typically allocate maintenance responsibilities between the landlord and tenant. The tenant's general obligation to maintain the property "in good condition" may not extend to major structural repairs unless specifically required by the lease. The lease terms govern the responsibility for specific repairs.

164. D — In comparative negligence jurisdictions, the first driver's distraction may reduce his recovery by the percentage attributable to his fault. The pedestrian's distraction by phone call is contributory negligence that reduces but does not bar recovery. Comparative negligence principles govern the apportionment.

165. A — Under 28 U.S.C. § 1367(c), federal courts have discretion to retain or dismiss state-law claims after dismissal of the federal claim. Factors include judicial economy, convenience, fairness, and comity, with completed discovery weighing toward retention. The court has discretion to retain or dismiss.

166. C — Under *Berghuis v. Thompkins*, a defendant's voluntary participation in custodial interrogation after Miranda warnings may constitute an implicit waiver. The court must find that the waiver was voluntary, knowing, and intelligent. The statements are admissible if the court so finds.

167. D — A conveyance to "whichever of my children is alive at the son's death" creates contingent remainders that vest in the surviving children. Upon the son's death, the daughter is the only surviving child of the homeowner. The daughter takes the entire property as the only surviving child.

168. B — A driver who is aware of an impairment and chooses to continue driving may be found negligent. The driver's belief that he could continue safely is not a defense if a reasonable person in his position would have stopped driving. The driver is liable for the resulting accident.

169. C — The Fair Housing Act prohibits discrimination in housing based on race regardless of the landlord's motivation. Tenant preferences for non-minority neighbors are not a legitimate reason for racial discrimination. The landlord is liable for racial discrimination.

170. A — Statements showing the defendant's prior intent or motive to harm the victim are admissible under Federal Rule of Evidence 404(b) to show motive, intent, and absence of mistake. Prior threats against the victim are highly probative of the defendant's state of mind. The evidence is admissible for these non-character purposes.

171. B — A financing contingency in a real estate contract is a condition precedent to the buyer's obligation to close. Failure to satisfy the contingency entitles the buyer to recover the earnest money deposit. The seller cannot retain the deposit when the contingency fails through no fault of the buyer.

172. D — The maxim "ignorance of the law is no excuse" generally precludes mistake of law as a defense to criminal liability. The defendant's lack of awareness of the legal restrictions on the weapon does not provide a defense. Limited exceptions apply only when the statute expressly requires knowledge of the law.

173. A — Even hands-free cell phone use can constitute distracted driving if it diverts the driver's attention from the road. The driver's attention to the phone call caused his car to drift, breaching the duty of care owed to the other driver. Hands-free does not equate to attention-free.

174. C — Under *Skinner v. Railway Labor Executives' Association* and similar cases, the government has a "special need" for testing of federal employees that justifies departures from individualized suspicion requirements. Annual physical examinations of federal employees serve substantial governmental interests in workplace safety and productivity. The examinations are constitutional under the special needs doctrine.

175. D — Under UCC § 2-712, the buyer's cover damages are the difference between the cost of cover and the contract price. $\$30$ (substitute) - $\$25$ (contract) = $\$5$ per widget \times 1,000 widgets = $\$5,000$. The buyer recovers the difference between the contract price and the substitute price.

176. B — Evidence of the defendant's preparation for the crime, including the purchase of a weapon shortly before the murder, is admissible under Federal Rule of Evidence 404(b) to show preparation, planning, and intent. The recent gun purchase is highly probative of the defendant's state of mind. The evidence is admissible for these non-character purposes.

177. C — When a joint tenant conveys his interest to a third party, the joint tenancy is severed and converted to a tenancy in common with respect to that interest. The right of survivorship is destroyed for the conveyed interest. The third party becomes a tenant in common with the remaining joint tenant.

178. A — A driver maintaining the speed limit who is struck by another driver running a red light generally has no duty to anticipate the other driver's violation. The first driver's compliance with the speed limit satisfies his duty of care. The driver is not liable for the accident.

179. B — The Rehabilitation Act and ADA require schools to provide reasonable accommodations for students with disabilities. The university's refusal to accommodate the student with dyslexia violates these statutes if reasonable accommodation was possible without fundamentally altering the program. The university is liable for disability discrimination.

180. D — A confession obtained through a polygraph examination is generally inadmissible if the polygraph examination was coercive. Polygraph examinations are inherently coercive due to the psychological pressure to maintain consistent responses. The confession is suppressed because of the coercive nature of the polygraph examination.

181. C — Under the doctrine of substantial performance, a contractor who has substantially completed the work is entitled to the contract price minus damages caused by the delay. Completing the work 10 days late is generally substantial performance, not a material breach. The builder recovers the contract price minus damages for the delay.

182. A — In comparative negligence jurisdictions, a plaintiff's contributory negligence may reduce his recovery by the percentage of his fault. The first driver's distraction may reduce his recovery in a comparative negligence jurisdiction. The recovery is reduced but not barred.

183. D — Title II of the Civil Rights Act of 1964 prohibits discrimination in places of public accommodation based on religion. A business that holds itself out as a public accommodation cannot discriminate against customers based on religion regardless of the owner's beliefs. The business is liable for religious discrimination.

184. B — Evidence of the defendant's prior aggressive behavior may be admitted under Federal Rule of Evidence 404(b) to rebut a self-defense claim by showing the defendant was the aggressor. The defendant's prior bar fights are probative of his identity as the aggressor. The evidence is admissible for this non-character purpose.

185. C — A financing contingency in a real estate contract is a condition precedent to the buyer's obligation to close. Failure to satisfy the contingency entitles the buyer to recover the earnest money deposit. The seller's higher resale price does not affect the buyer's right to the deposit.

186. A — A driver who is aware of an impairment and chooses to continue driving may be found negligent. The driver's continued driving despite the dizziness, knowing of its potential to cause loss of control, breached the duty of care. The driver is liable for the resulting accident.

187. B — Under 28 U.S.C. § 1367(c), federal courts have discretion to retain or dismiss state-law claims after dismissal of the federal claim. Factors include judicial economy, convenience, fairness, and comity, with completed discovery and three years of litigation weighing toward retention. The court has discretion to retain or dismiss.

188. D — A trial court's findings on the validity of a search warrant are factual findings subject to deferential review on appeal. The appellate court accepts the findings unless clearly erroneous, while reviewing the ultimate legal conclusion de novo. The clear-error standard governs the factual findings.

189. C — Commercial leases typically allocate maintenance responsibilities between the landlord and tenant. Plumbing systems are typically the landlord's responsibility as part of the building's structural systems unless the lease specifically allocates this responsibility to the tenant. The lease terms govern but plumbing is generally landlord's domain.

190. A — Under the sudden emergency doctrine, a driver is not liable when an unforeseeable event causes an accident, provided the driver acted reasonably under the circumstances. A deer's sudden appearance is an unforeseeable emergency. The driver's reaction was reasonable under the sudden emergency.

191. D — The ADA requires schools and government agencies receiving federal funds to provide reasonable accommodations, including allowing service animals, unless doing so would fundamentally alter the program. The university's blanket refusal to accommodate the student with a service animal violates the ADA. The university is liable.

192. B — A statement made by the victim shortly before death may not qualify as a dying declaration if the declarant did not believe death was imminent at the time. A statement that the defendant might shoot the victim, without specifying imminent death, may not satisfy the dying declaration requirements. The statement may be testimonial and suppressed under *Crawford v. Washington*.

193. C — Marketable title requires title that is free of encumbrances that materially affect the buyer's use. A 10-foot utility easement that materially impacts the buyer's intended use of the property may render title unmarketable. The buyer's intended use determines whether the easement materially affects marketability.

194. A — Under the last clear chance doctrine, a plaintiff may recover despite his own contributory negligence if the defendant had the last opportunity to avoid the accident. The at-fault driver's running of the red light created the immediate hazard that the first driver could not have avoided. The first driver may recover despite any minor negligence.

195. B — Under *Skinner v. Railway Labor Executives' Association*, the government's "special need" must justify the suspicionless search. A clerical worker with no public safety responsibilities lacks the diminished privacy expectations that justify suspicionless drug testing of safety-sensitive employees. The testing of this employee is unconstitutional.

196. D — Evidence of the defendant's preparation for the crime, including the purchase of a weapon shortly before the murder, is admissible under Federal Rule of Evidence 404(b) to show preparation, planning, and intent. The recent gun purchase is highly probative of the defendant's state of mind. The evidence is admissible for these non-character purposes.

197. A — Under UCC § 2-508, a seller may cure a non-conformity if the cure can be made within the original contract time. If the original delivery period has passed, the buyer may reject the cure unless the seller had reasonable grounds to believe the original tender would be acceptable. The buyer's rejection of an untimely cure is valid.

198. C — Self-help eviction is generally prohibited in most jurisdictions, even for non-payment of rent. The landlord must follow statutory eviction procedures, typically through court action. The landlord's change of locks and removal of belongings without judicial process constitutes wrongful eviction.

199. B — Under *Berghuis v. Thompkins*, a defendant's voluntary participation in custodial interrogation after *Miranda* warnings may constitute an implicit waiver of his rights. Express waiver is not required if the totality of circumstances supports voluntary, knowing, and intelligent waiver. The confession is admissible if the waiver was valid.

200. D — The ADA requires schools and government agencies receiving federal funds to provide reasonable accommodations for students with disabilities. Cost alone is not a defense unless the accommodation would cause undue hardship. The university is liable for refusing to provide reasonable accommodation through interpretation services.