

PRACTICE EXAM 17: CALIFORNIA ESSAY EXAM SIMULATION (50 QUESTIONS)

1. A buyer and seller entered into a written contract for the sale of a tract of land, both parties believing in good faith that the land contained 10 acres of harvestable timber based on a 1995 survey provided by the seller. After closing and at the buyer's expense, a new survey revealed the land contained only 3 acres of harvestable timber. The buyer sued for rescission. Under California contract law, what is the most likely result?

A. The buyer cannot rescind because the parties' shared assumption regarding the timber acreage was a matter of fact rather than law.

B. The buyer cannot rescind because the seller did not make any affirmative misrepresentation regarding the property at the time of the transaction.

C. The buyer may rescind for mutual mistake because both parties were mistaken as to a basic assumption on which the contract was made, the mistake has a material effect on the agreed exchange, and the buyer did not bear the risk of the mistake.

D. The buyer may obtain only monetary damages calculated as the difference between the represented and actual timber acreage at the date of contracting.

2. A local online news outlet published an article stating that a private business owner had been arrested for embezzling from her own company. The arrest report on which the article was based was accurate, but the article failed to note that the charges had been dropped within hours of the arrest. The business owner suffered substantial damage to her reputation. She sued for defamation. Under *Gertz v. Robert Welch, Inc.*, what must she prove?

A. She must prove the outlet acted with actual malice — knowledge of falsity or reckless disregard for whether the published material was true at the time of publication.

B. She must prove the outlet acted with at least negligence regarding the truth or falsity of the publication and the resulting reputational harm to her business and personal interests.

C. She need only prove publication and the resulting harm; no fault standard applies because she is a private figure under California defamation law.

D. She cannot recover because the article was based on a publicly available arrest report that constituted an absolute privilege regardless of subsequent developments.

3. A killing that would otherwise be murder may be reduced to voluntary manslaughter under California Penal Code section 192(a) if the defendant acted upon _____, provoked by circumstances sufficient to arouse the passions of an ordinarily reasonable person, and before any cooling-off period had occurred.

A. a sudden quarrel or heat of passion

B. premeditation and willful deliberation

C. negligent or grossly inattentive conduct

D. strict liability for an inherently dangerous act

4. Two siblings owned a parcel of California real property as joint tenants with right of survivorship. One sibling, without informing the other, executed and recorded a deed conveying her interest to a third party. The third party then recorded the deed. The non-conveying sibling later died, and her estate claimed full ownership of the property by right of survivorship. Under California law, what is the result?

A. The conveying sibling's interest was unilaterally voidable because joint tenancy creates an irrevocable right of survivorship until the death of all joint tenants of record.

B. The full property passes to the non-conveying sibling's estate by right of survivorship because joint tenancy severance requires mutual consent of all joint tenants under California law.

C. The non-conveying sibling's estate takes a one-half interest only if the third party recorded with actual notice of the joint tenancy arrangement between the original owners of the property.

D. The deed severed the joint tenancy, converting the parties' interests into a tenancy in common; the third party took the conveying sibling's one-half interest, and the non-conveying sibling's one-half interest passes through her estate without right of survivorship.

5. At a criminal trial for assault, the prosecution sought to introduce statements made by the alleged victim to a 911 dispatcher during an ongoing emergency, identifying the defendant by name as her attacker. The victim was unavailable at trial. The defendant objected on Confrontation Clause grounds. Under Crawford v. Washington and Davis v. Washington, what is the result?

- A. The statements are inadmissible because the Confrontation Clause categorically bars all out-of-court statements offered against criminal defendants regardless of the circumstances surrounding the statement.
- B. The statements are likely admissible because statements made to police or 911 operators primarily to address an ongoing emergency are nontestimonial under the primary purpose test and do not trigger Confrontation Clause protections.
- C. The statements are inadmissible because the defendant had no opportunity to cross-examine the victim regarding the 911 call before her unavailability made her testimony impossible to obtain at trial.
- D. The statements are admissible only as excited utterances under FRE 803(2) and not under any independent Confrontation Clause analysis applicable to testimonial hearsay in criminal proceedings.

6. A testator validly executed a will in 2015 leaving her estate to two named beneficiaries. In 2020, the testator executed a properly attested codicil that explicitly stated "I republish my will of 2015 in full" and added a new specific bequest of \$25,000 to a third beneficiary. The 2015 will had been kept in the testator's safety deposit box continuously. The testator died in 2024. Under California's doctrine of republication by codicil, what is the result?

- A. Only the new bequest in the codicil is valid; the underlying 2015 will is invalid because the doctrine of republication is not recognized in California probate law for testamentary instruments.
- B. The codicil's bequest is invalid because adding new specific bequests through a codicil requires complete re-execution of the entire underlying will under California formalities for testamentary writings.
- C. The codicil is invalid because California requires republication by codicil to use specific statutory language not present in the testator's chosen wording of the republishing instrument.
- D. Under the doctrine of republication by codicil, the codicil's execution effectively re-executes and republishes the prior will as of the codicil's date; the 2015 will is treated as having been executed on the codicil's date, and both instruments are valid.

7. Under *Florida v. J.L.* and *Terry v. Ohio*, an anonymous tip lacking sufficient indicia of reliability — even one that accurately describes a suspect's physical appearance — generally _____.

- A. provides automatic reasonable suspicion for any investigatory Terry stop and frisk of the described person
- B. justifies a full custodial arrest if the suspect matches the physical description provided in the tip
- C. does not, standing alone, provide reasonable suspicion sufficient for a Terry stop and frisk
- D. retroactively validates any subsequent recovery of incriminating evidence by the responding officers

8. A real estate broker, while acting as the buyer's agent in a transaction, secretly purchased the subject property himself by undisclosed straw purchaser, then resold it to his client at a marked-up price, pocketing the difference as a hidden profit. The client later discovered the scheme and sued. Among other remedies, the client sought to impose a constructive trust on the broker's profits. Under California law, what governs?

A. A constructive trust is an equitable remedy imposed to prevent unjust enrichment when a defendant has wrongfully obtained property or its proceeds through fraud, breach of fiduciary duty, or other inequitable conduct; the broker's profits would be held in constructive trust for the client.

B. A constructive trust requires an express written agreement between the parties identifying the specific assets to be held in trust, regardless of any independent wrongful conduct by either party in the underlying transaction.

C. A constructive trust is unavailable when monetary damages would provide an adequate legal remedy under any circumstances, including ones involving real estate fraud, in California civil litigation.

D. A constructive trust may only be imposed where the plaintiff can identify a specific tracing of the wrongfully obtained property and where no statute of limitations has expired on the underlying claim.

9. A California attorney charged a personal injury client a 50% contingency fee for handling a routine soft-tissue auto accident claim that the attorney resolved with the insurance company through one demand letter, settling within three weeks for \$30,000. The attorney took \$15,000 as her contingency fee. Under CRPC 1.5 and Business and Professions Code section 6147, what is the most likely result?

A. The fee is valid in all respects because contingency fee agreements may be set at any percentage by mutual agreement between attorney and client without external regulatory review.

B. The fee is valid only if the client signed a written agreement explicitly authorizing a fee in excess of 33⅓% of the recovery before any work was performed on the underlying claim.

C. The fee is invalid because all contingency fees in California are statutorily capped at 33⅓% of any recovery regardless of the nature of the underlying claim under controlling California law.

D. The fee may be subject to challenge as unconscionable under CRPC 1.5 because the percentage may be disproportionate to the actual work performed; California considers factors including time and labor required, complexity, the result obtained, and the customary fee for similar services.

10. A couple married in New York in 1998 and lived there for 20 years, during which Husband accumulated \$500,000 in retirement savings from his New York employment. In 2018, the couple moved to California, where they have resided since. In 2024, the parties petitioned for dissolution. Under California Family Code sections 125 and 2550, how is the New York retirement savings characterized and divided?

A. The retirement savings remain entirely Husband's separate property because they were earned outside California before establishment of California domicile by the couple at any time.

B. The retirement savings constitute quasi-community property because they would have been community property had the spouses been domiciled in California at the time of acquisition; they are subject to equal division at dissolution.

C. The retirement savings remain entirely subject to New York law under the doctrine of comity because they were acquired during New York residency rather than during California residency by either party.

D. The retirement savings are divided by reference to the New York state intestacy rules currently in effect rather than by reference to California community property division principles.

11. A federal district court is considering certification of a class of consumers who allege a defective product injured them across multiple states. Plaintiffs propose 50,000 class members with individual damages ranging from \$200 to \$5,000 each. Defendants opposed certification. Under Federal Rule of Civil Procedure 23, the court must analyze each of the following EXCEPT:

A. Numerosity — whether the class is so numerous that joinder of all members is impracticable as a practical matter in the proposed federal action.

B. Commonality and typicality — whether common questions of law or fact exist among the class members and whether the named plaintiffs' claims are typical of the class as a whole.

C. The specific net worth of each individual class member, including verifiable proof of personal financial standing and demonstrated economic loss attributable to the defendant.

D. Adequacy of representation — whether the named plaintiffs and class counsel will fairly and adequately protect the interests of the class members in the proposed litigation.

12. The defendant entered an unlocked storage shed behind a residence at 2:00 a.m. with the intent to steal lawn tools stored there. He took several tools and was apprehended by police while exiting the shed. The prosecution charged the defendant with first-degree burglary under Penal Code section 459. Under California law, what is the most likely result?

A. The charge should likely be reduced to second-degree burglary because first-degree burglary requires entry into an inhabited dwelling house or specified structure functionally connected and contiguous to one; an unattached storage shed generally fails this requirement under section 460.

B. The charge of first-degree burglary should be sustained because California law treats all unauthorized nighttime entries into any structure on a residential property as automatically first-degree burglary regardless of the structure's connection to the dwelling.

C. The charge should be dismissed entirely because California has abolished the common-law distinction between burglary degrees and replaced it with a single statutory theft offense applicable to all unauthorized entries with intent to steal.

D. The charge should be sustained as first-degree burglary because any storage shed used in connection with a residential dwelling is automatically classified as part of the inhabited dwelling for burglary degree classification purposes.

13. A state statute provided that only widows, but not widowers, could receive Social Security survivor benefits upon the death of a working spouse. A widower challenged the statute on equal protection grounds. Under *Craig v. Boren* and federal equal protection doctrine for gender classifications, what is the result?

A. The statute is constitutional because gender classifications affecting Social Security benefits are subject to rational basis review and are upheld if any conceivable legitimate purpose supports the distinction made by the legislature.

B. The statute is likely unconstitutional because gender classifications by government are subject to intermediate scrutiny, requiring substantial relationship to an important government interest; gender-based widow/widower distinctions generally fail this test.

C. The statute is constitutional because gender classifications are reviewed under strict scrutiny only when imposed by federal rather than state governments under controlling federal constitutional law.

D. The statute is constitutional because Social Security benefits are conditional government largesse subject to no constitutional review under federal equal protection doctrine of any kind.

14. Under California Civil Code section 1624, the Statute of Frauds generally requires a writing for contracts that _____.

A. exceed \$10,000 in total value at the time of contract formation

B. involve home improvement services for any California residential property

C. provide for sale of personal services that cannot be unilaterally canceled

D. cannot, by their terms, be performed within one year from the making of the contract

15. Following a car accident, a passenger in one of the vehicles took out her cell phone and immediately recorded a video showing the other driver still seated in his car, slurring his words and unable to respond coherently. The passenger gave the video to police shortly thereafter and identified the driver. At a

criminal trial for DUI, the prosecution sought to introduce the video. Under California Evidence Code sections 1240 and 1241, what is the relevant analysis?

- A. The video is inadmissible because hearsay exceptions do not apply to electronic recordings created by non-parties at the scene of accidents in any California criminal proceeding involving a DUI offense.
- B. The video is admissible only as a present sense impression and not as any other form of admissible hearsay under California state evidentiary law applicable to recordings.
- C. The video may be admissible under multiple exceptions: the driver's slurred statements (if assertive) may be present-sense impressions or party admissions; the video's observable conditions of the driver are non-hearsay; the recording must be authenticated under section 1400.
- D. The video is admissible only if the passenger personally testifies and is available for cross-examination regarding all the circumstances surrounding the recording of the contents shown to the jury at trial.

16. A testator validly executed a will in 2020 leaving her estate equally to her four children. In 2023, she physically destroyed the 2020 will, intending to replace it with a new will leaving an additional bequest to a charity. She prepared and executed a typed document purporting to be the new will, but the new document was not properly attested by two witnesses and is therefore invalid. The testator died in 2024. Under California's doctrine of dependent relative revocation, what is the result?

- A. The 2020 will remains in effect by default because California law presumes prior wills survive failed subsequent attempts at execution without further inquiry into the testator's intent at any time.
- B. Under dependent relative revocation, the revocation of the 2020 will may be deemed conditional on the validity of the new document; because the new document failed, the revocation is set aside and the 2020 will is restored to operative effect, if the doctrine's requirements are met.
- C. The doctrine of dependent relative revocation does not apply in California; the estate passes by intestate succession because the 2020 will was physically destroyed by the testator with apparent intent to revoke it.
- D. The estate passes according to the terms of the failed 2023 document because California probate courts must give effect to the testator's most recently expressed intent regardless of formal execution requirements that ordinarily apply.

17. A landowner granted a written easement to her neighbor providing "the right to cross my property to access the public road, by the existing road on the property only." The deed was duly recorded. Five years later, the landowner sold her property to a new owner, who attempted to fence off the easement road and require the neighbor to cross at a different location. Under California law, what governs?

A. The express easement burdens the new owner's property because the deed was recorded, providing constructive notice to the subsequent purchaser; the new owner takes subject to the easement and cannot unilaterally relocate it absent the holder's consent or compliance with limited statutory relocation procedures.

B. The easement was extinguished by the conveyance of the burdened property because easements bind only the original parties who executed the easement document, not subsequent purchasers of the burdened estate.

C. The new owner may freely relocate the easement to any reasonable alternative route because servient owners retain plenary authority over the location and configuration of all easements on their property.

D. The neighbor may use the easement only if the original landowner remains alive; recorded easements terminate automatically upon the death of either original party to the easement document.

18. All of the following are accurate statements about move-away custody disputes under *In re Marriage of Burgess* and Family Code section 7501 EXCEPT:

A. The custodial parent generally has a presumptive right to relocate with the child under Family Code section 7501.

B. The non-custodial parent bears the burden of showing the proposed relocation would be detrimental to the child's best interest.

C. The court considers factors including the child's stability, the child's relationship with each parent, the reasons for the move, and the impact on visitation arrangements.

D. The court must apply a strict best-interest analysis from scratch as if no prior custody arrangement existed, requiring fresh evidentiary hearings on all underlying custody factors at every modification.

19. A creditor sued a small California corporation and its sole shareholder personally to recover an unpaid commercial debt. The creditor argued the shareholder had treated the corporation as her personal alter ego — commingling funds, failing to observe formalities, and undercapitalizing the entity. Under California law, which of the following is required?

A. The creditor must prove the shareholder acted with actual subjective fraudulent intent in forming the corporation at the time of incorporation, regardless of subsequent corporate conduct or commingling.

B. The creditor must prove the corporation was undercapitalized at the moment the underlying debt was incurred and that the shareholder knew the entity was undercapitalized at that specific time.

C. The creditor must show (1) such unity of interest and ownership that the separate personalities of the corporation and the shareholder no longer exist, and (2) that recognizing the corporate form would sanction a fraud or promote injustice; both elements are required under California's two-prong alter ego test.

D. The creditor must prove the corporation had no separate bank account at the time of contracting with the creditor and that all corporate funds were held in personal accounts of the sole shareholder.

20. A property owner kept a pet tiger in an enclosed yard, having obtained the proper permits and constructed substantial fencing. Despite the precautions, the tiger escaped through a tree branch that fell on the fence during a windstorm and attacked a neighbor walking on the public sidewalk, causing serious injury. The neighbor sued the property owner. Under California law, what is the result?

A. The property owner is strictly liable for injuries caused by wild animals (including exotic pets such as tigers) regardless of the precautions taken, because California follows the common-law rule of strict liability for keeping inherently dangerous animals.

B. The property owner is liable only if the neighbor can prove negligence in the construction or maintenance of the fence and grounds at the time of the escape from the enclosure where the tiger was kept.

C. The property owner is not liable because the escape was caused by an unforeseeable act of nature (the windstorm) constituting an intervening superseding cause that severs the chain of legal causation between the keeping and the injury.

D. The property owner is not liable because California has abolished strict liability for animals in favor of an exclusively negligence-based regime for all animal-related injury claims under modern California tort law.

21. All of the following are accurate statements about personal jurisdiction under International Shoe and modern federal doctrine EXCEPT:

A. Specific personal jurisdiction requires that the defendant have purposefully availed itself of the forum state and that the claim arise out of or relate to those contacts.

B. A passive website accessible from a forum state, without more, generally establishes minimum contacts sufficient for the forum state's specific personal jurisdiction over an out-of-state operator.

C. General personal jurisdiction requires "continuous and systematic" contacts so substantial as to render the defendant essentially at home in the forum state.

D. The exercise of personal jurisdiction must be reasonable under the fair play and substantial justice factors, including burden on the defendant and forum interest.

22. A police officer lawfully entered a residence to execute a search warrant for stolen jewelry. While searching a dresser drawer, the officer observed in plain view a baggie of white powder he immediately recognized as methamphetamine based on his training and experience. The officer seized the methamphetamine. The defendant moved to suppress. Under *Horton v. California* and the plain view doctrine, what is the result?

A. The methamphetamine must be suppressed because the officer's warrant specified only stolen jewelry; any other items recovered exceed the warrant's authorized scope of search as a matter of constitutional Fourth Amendment law.

B. The methamphetamine must be suppressed because the plain view doctrine requires the officer to have an independent prior probable cause specifically supporting the seizure of the additional evidence found during the search.

C. The methamphetamine must be suppressed because California has abolished the plain view doctrine in favor of strict adherence to the warrant requirement of the Fourth Amendment in all search-and-seizure cases.

D. The methamphetamine is admissible because the plain view doctrine permits seizure of evidence when the officer is lawfully present, the evidence is in plain view, and the incriminating character of the item is immediately apparent.

23. Consider the following statements about the Rule Against Perpetuities in California:

I. The common-law Rule Against Perpetuities provides that no interest is good unless it must vest, if at all, within 21 years after the death of a life in being at the creation of the interest.

II. California Probate Code section 21205 (USRAP) provides an alternative validation period of 90 years after the creation of the interest, in addition to the common-law lives-in-being-plus-21 rule.

Which statement(s) accurately describe California law?

A. I only

- B. II only
- C. Both I and II
- D. Neither I nor II

24. Consider the following statements about California's slayer statute (Probate Code section 250):

I. A person who feloniously and intentionally kills the decedent is barred from taking any property or benefit from the decedent's estate, and the property passes as if the slayer had predeceased the decedent.

II. The statute applies regardless of whether the killing constituted first-degree murder, second-degree murder, or voluntary manslaughter, so long as the killing was felonious and intentional.

Which statement(s) accurately describe California law?

- A. Both I and II
- B. I only
- C. II only
- D. Neither I nor II

25. A state enacted a statute that criminalized the use of contraception by married couples within the state's borders. Challenged on constitutional grounds, the state argued the legislature had a legitimate interest in promoting marital procreation. Under *Griswold v. Connecticut* and substantive due process doctrine, what is the result?

A. The statute is constitutional under rational basis review because procreation is a legitimate government interest and the prohibition is rationally related to that legislative interest.

B. The statute is likely unconstitutional under *Griswold v. Connecticut* and subsequent doctrine because the right of marital privacy in matters of contraception is protected as a fundamental right under substantive due process, subjecting such regulations to strict scrutiny.

C. The statute is constitutional because reproductive matters are committed to state regulation under the police power without federal constitutional limitations applicable to such state lawmaking authority.

D. The statute is unconstitutional only if it discriminates between married and unmarried couples in the application of the criminal penalty for contraception under the federal Equal Protection Clause.

26. An attorney represented a longtime client in negotiating a complex business deal. During the engagement, the client offered to lend the attorney \$50,000 personally, on commercially reasonable terms, to help the attorney finance an unrelated real estate investment. The attorney accepted without providing written disclosure or recommending that the client seek independent legal advice. Under CRPC 1.8.1, what is the result?

A. The conduct is permitted because business transactions between attorneys and longtime trusted clients are exempt from the formal disclosure requirements of California rules of professional conduct.

B. The conduct is permitted because the loan was made on commercially reasonable terms and the client suffered no financial disadvantage in the underlying transaction with the lawyer at any point.

C. The conduct violates CRPC 1.8.1 because business transactions between lawyer and client require the lawyer to provide written disclosure of the transaction's terms, written advice to seek independent counsel, and informed written consent from the client.

D. The conduct violates CRPC 1.8.1 only if the loan later goes into default or causes the client measurable economic harm beyond the original transaction amount and circumstances.

27. A grantor conveyed Greenacre to Buyer A on January 10 for \$200,000; Buyer A neither recorded nor took possession. On February 5, the same grantor conveyed Greenacre to Buyer B for \$190,000. Buyer B knew of the earlier conveyance to Buyer A but recorded immediately on February 5. Buyer A recorded on February 20. California has a race-notice recording statute. Who prevails?

A. Buyer B because Buyer B recorded first regardless of any knowledge of the prior conveyance under California's race-notice statute as applied between competing grantees.

B. Buyer B because California's race-notice statute treats the first recording as conclusive regardless of any extraneous knowledge by the recording party at the time of the transaction.

C. Buyer A because Buyer A received the deed first in time and California treats first delivery as conclusive between competing grantees regardless of any subsequent recording activity.

D. Buyer A because Buyer B took with actual knowledge of the prior conveyance; under California's race-notice statute, a subsequent purchaser must take without notice (actual or constructive) to prevail, and Buyer B fails the notice requirement.

28. Under California Penal Code section 21a, criminal attempt requires both (1) the specific intent to commit the targeted offense and (2) _____.

- A. a direct, unequivocal act in furtherance of that intent going beyond mere preparation
- B. completion of a substantial portion of the underlying targeted offense before any apprehension
- C. infliction of measurable harm to a person or property identified as the intended target
- D. cooperation by at least one additional individual who shared the criminal intent

29. A witness called 911 to report a hit-and-run accident she was observing as she spoke. She described the fleeing vehicle: "It's a blue sedan, license plate beginning with 7ABC, heading east on Main Street." At trial, the witness was unavailable. The prosecution sought to introduce the 911 recording. Under California Evidence Code section 1241 and Federal Rule of Evidence 803(1), what is the analysis?

- A. The recording is inadmissible because all 911 calls are inadmissible hearsay in California criminal proceedings regardless of any applicable hearsay exceptions for excited or contemporaneous statements.
- B. The recording is inadmissible because the present-sense impression exception requires the declarant to be available for trial cross-examination under California state hearsay law applicable to 911 calls.
- C. The recording may be admissible as a present-sense impression — a statement describing or explaining an event made while the declarant was perceiving the event or immediately thereafter; contemporaneity provides reliability and substitutes for cross-examination.
- D. The recording is admissible only if the prosecutor can prove the witness later died of natural causes wholly unrelated to the underlying criminal offense reported in the 911 call to dispatch.

30. A printing company contracted with a courier service to deliver an important manuscript to a publisher by a specified deadline. The courier was told only that the package needed to arrive promptly and was not informed that the printing company would lose a \$50,000 publishing contract if the package arrived late. The courier delayed delivery negligently. The publisher canceled the contract. The printing company sued the courier for \$50,000. Under *Hadley v. Baxendale*, the result is:

- A. The printing company may recover only damages that arise naturally from the breach and damages that were reasonably foreseeable or within the parties' contemplation at the time of contracting; the \$50,000 lost contract may not be recoverable because the courier was never informed of the special circumstances making timely delivery so critically valuable.

B. The printing company may recover the full \$50,000 lost contract amount because all consequential damages flowing from any breach of contract are recoverable as a matter of California contract law applicable to commercial service disputes.

C. The printing company may recover nothing because California limits all damages in courier service disputes to a refund of any shipping fees actually paid by the sender for the service at issue in the litigation.

D. The printing company may recover the full \$50,000 even though the courier had no knowledge of the special circumstances because California has abolished the foreseeability requirement of consequential damages.

31. A defendant in a state-court action wishes to remove the case to federal court based on diversity. The defendant first learned that the amount in controversy exceeded \$75,000 only after reviewing the plaintiff's discovery responses 14 months after the complaint was originally filed. The defendant filed a notice of removal 25 days after receiving the discovery responses. Under 28 U.S.C. § 1446, the result is:

A. The case should be remanded because all notices of removal must be filed within 30 days of the original filing of the state-court complaint regardless of when the grounds for removal first become known to the defendant.

B. The case should not be remanded because removal is permitted at any point before final judgment in the underlying state-court action regardless of any timing considerations of any kind.

C. The case should be remanded because diversity-based removal must occur within 90 days of the complaint's original filing under section 1446(c) of the federal statute applicable to removal procedure.

D. The case should be remanded because § 1446(c)(1) imposes a one-year outer limit on diversity-based removals (absent bad-faith plaintiff conduct), measured from the commencement of the action; the 14-month delay exceeds this limit despite the defendant's prior-stage diligence.

32. A testator validly executed a will in 2018 leaving her entire estate to her then-current spouse. The testator and the spouse had no children at the time the will was executed. In 2021, the testator and her spouse had a child, who was not mentioned in the original will. The testator died in 2024 without amending her will. The child claims a share under California's pretermitted child statute. Under Probate Code sections 21620–21623, the result is:

A. The child is entitled to a share of the estate equal to what the child would have received had the testator died intestate, unless one of the statutory exceptions applies (intentional omission appearing on the face of the will, substantial provision through non-testamentary transfer, or all/substantially all of the estate left to the other parent).

B. The child takes no share because the testator could have amended the will after the child's birth and the failure to do so constitutes implied disinheritance of the after-born child under California probate law.

C. The child takes a mandatory one-half share of the estate, with the other half going to the surviving spouse as the named beneficiary in the original will executed before the child's birth.

D. The child takes a one-third share of the estate as the statutory minimum for any after-born child of a California testator regardless of the will's named beneficiaries or any contrary intent.

33. All of the following are accurate statements about regulation of speech in traditional public forums (such as public parks and sidewalks) EXCEPT:

A. Content-based restrictions on speech in a traditional public forum must satisfy strict scrutiny and serve a compelling government interest narrowly tailored to that interest.

B. Content-neutral time, place, and manner regulations must be narrowly tailored to serve a significant government interest and leave open ample alternative channels of communication.

C. The government may impose reasonable permit requirements on large demonstrations in public parks if the requirements are content-neutral and applied even-handedly to all groups seeking to assemble.

D. The government may broadly prohibit "all leafleting, demonstrations, and signs of any kind" in a public park during operating hours because traditional public forums are subject to plenary municipal speech regulation.

34. Following a 12-year marriage, the court awarded spousal support of \$3,000 per month to Wife, with no specified termination date. Wife later began living with a new romantic partner in a "marriage-like" relationship, sharing household expenses and a residence for 18 months. Husband moved to terminate or modify the support obligation under Family Code section 4323. What governs the analysis?

A. Spousal support terminates automatically upon Wife's commencement of any cohabiting romantic relationship under California family law without further proof or court order of any kind.

B. Spousal support cannot be modified absent Wife's remarriage to the new partner, which is the sole basis for termination under California family law applicable to court-ordered spousal support.

C. Under Family Code section 4323, there is a rebuttable presumption of decreased need for support when the supported party is cohabiting with a non-marital partner; the supporting party may move to modify or terminate support based on this changed circumstance.

D. Spousal support continues indefinitely regardless of cohabitation because California provides absolute lifetime protection to recipients of court-ordered support under all California family law statutes.

35. Under California Penal Code section 653f, solicitation of murder requires that the solicitor _____.

- A. complete the underlying murder with the assistance of the solicited party in execution of the offense
- B. verbally or in writing solicit another to commit murder, with specific intent that the crime be committed
- C. provide tangible compensation or actual payment to the solicited party before completion of the offense
- D. include at least one additional co-conspirator beyond the solicited party in the solicitation request

36. A party sought to prove the terms of a contract by introducing testimony from a witness who had read the original contract. The original was claimed by the opposing party to be in their exclusive possession and was not produced at trial. Under California Evidence Code section 1521 (Secondary Evidence Rule) and Federal Rule of Evidence 1004, what is the result?

- A. Under section 1521, California has largely abolished the traditional best evidence rule and admits secondary evidence (such as testimony or copies) of a writing's contents unless the court determines that a genuine dispute exists about the original's contents, or that admission of secondary evidence would be unfair.
- B. The testimony must be excluded because the original document is the only admissible evidence of its contents under any circumstances in California state court proceedings involving contract disputes between commercial parties.
- C. The testimony is admissible only if the original was destroyed by acts of God or other natural disasters beyond either party's control over the original document and its preservation.
- D. The testimony is admissible only if the original was located in another state at the time of the trial and could not be transported to the trial location in time for use at the proceedings.

37. A homeowner obtained a \$400,000 purchase-money mortgage from Bank A (first trust deed, recorded March 1), a \$50,000 home equity line from Bank B (second trust deed, recorded April 1), and a \$25,000 improvement loan from Bank C (third trust deed, recorded May 1). The homeowner defaulted, and Bank B foreclosed. Under California law, the result is:

- A. Bank B's foreclosure wipes out all senior and junior liens, leaving Bank B as the sole secured creditor on the property after the foreclosure sale concludes and the property is transferred.

B. Bank A is wiped out by Bank B's foreclosure because Bank B's enforcement of its security interest extinguishes all prior recorded interests under California foreclosure principles applicable to deeds of trust.

C. Bank B's foreclosure wipes out junior liens (Bank C) but does not affect senior liens (Bank A); the buyer at foreclosure takes the property subject to Bank A's senior mortgage; Bank C may pursue the borrower personally subject to antideficiency restrictions.

D. All three banks are paid pro rata from the foreclosure sale proceeds in proportion to their original loan amounts regardless of the actual recording order of their respective deeds of trust.

38. The beneficiaries of an irrevocable trust petitioned the court to remove the trustee on grounds that the trustee had committed serious breaches of duty, including self-dealing transactions and failure to provide accountings for three years. The trustee opposed removal. Under California Probate Code section 15642, the result is:

A. Under section 15642, the court may remove a trustee for serious breach of trust, lack of cooperation among co-trustees substantially impairing administration, unfitness or incapacity, or other grounds in the best interests of the beneficiaries; self-dealing and failure to account would generally support removal.

B. Trustees may be removed only by the original settlor; once the settlor is deceased or incapacitated, trustees serve until death or voluntary resignation regardless of any subsequent misconduct toward the trust beneficiaries.

C. Trustees can be removed only by unanimous beneficiary action without any court involvement, and disputes among beneficiaries result in automatic retention of the trustee by default of unanimous agreement.

D. California has abolished judicial removal of trustees in favor of arbitration as the exclusive remedy for trustee misconduct under California probate law as applicable to irrevocable trusts.

39. Under *Ashcroft v. Iqbal* and *Bell Atlantic Corp. v. Twombly*, a complaint must contain _____ to survive a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6).

A. proof beyond a reasonable doubt of each element of the underlying claim asserted in the complaint

B. sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face

C. evidentiary citations to admissible documents already in the plaintiff's possession at the time of filing

D. authorization from the trial judge to proceed past the initial pleading stage of the litigation

40. An attorney licensed only in New York traveled to California to interview witnesses and prepare for an upcoming trial in a New York federal court action. While in California, she also provided legal advice to a California client on a related California state-law matter without seeking pro hac vice admission or associating with California counsel. Under CRPC 5.5, the result is:

A. The attorney's conduct is permitted because attorneys may freely engage in temporary cross-state legal practice without any restriction in any jurisdiction under California or federal rules governing the practice of law.

B. The attorney's conduct is permitted because witness interviews never constitute the practice of law under any state's regulations of legal practice regardless of the substantive scope of the conversations conducted.

C. The attorney's conduct is permitted because providing legal advice to clients is exempt from unauthorized practice rules when the underlying matter relates to ongoing litigation in another jurisdiction.

D. The attorney's conduct may violate CRPC 5.5 because she provided legal advice on California state-law matters to a California client without proper authorization (pro hac vice admission, association with a California-licensed attorney, or compliance with temporary practice provisions).

41. During a 10-year marriage, Husband deposited his separate property inheritance of \$150,000 into a joint bank account that he and Wife used for both their separate and community expenses. The account balance fluctuated throughout the marriage. At dissolution, the account holds \$80,000. Husband seeks to claim the entire \$80,000 as separate property. Under California law, what is required?

A. The entire \$80,000 is treated as community property because deposit of separate funds into a joint account creates an irrebuttable presumption of transmutation under California family law applicable to commingled funds during marriage.

B. The entire \$80,000 is treated as Husband's separate property because the original character of separate inheritance funds is preserved through deposit regardless of any subsequent commingling activities during the marriage.

C. Husband may claim the \$80,000 as separate property only if he can trace the funds remaining in the account directly back to the original separate property inheritance, applying recognized tracing methods (direct tracing or family expense exhaustion); without such tracing, community property is presumed.

D. The funds are divided fifty-fifty between separate and community property as a matter of statutory rule applicable to all commingled accounts in California marriages without any individualized tracing analysis.

42. Consider the following statements about the Establishment Clause and *Lemon v. Kurtzman*:

I. Under the Lemon test, a government action is constitutional only if it has a secular purpose, does not have the primary effect of advancing or inhibiting religion, and does not foster excessive government entanglement with religion.

II. The Lemon test has been substantially modified or supplemented in recent decades by the endorsement test and the coercion test, both of which focus on whether government action would be perceived as endorsing or coercing religion.

Which statement(s) accurately describe federal constitutional law?

- A. I only
- B. Both I and II
- C. II only
- D. Neither I nor II

43. A defendant purchased a high-end laptop computer from a stranger in a parking lot for \$50 cash. The laptop's retail value was \$2,500, and visible serial number markings had been scratched off. The defendant did not personally steal the laptop, but the seller (who had stolen it) had pressured the defendant to make the purchase quickly. The prosecution charged the defendant under Penal Code section 496. What governs the knowledge element?

- A. Under section 496, the prosecution may satisfy the knowledge element by proving the defendant either actually knew or had reasonable cause to believe the property was stolen; circumstantial evidence such as a far-below-market price and altered identifying marks may support the required mental state.
- B. Under section 496, the prosecution must prove the defendant personally participated in or had advance knowledge of the underlying theft of the specific property at issue in the charged transaction.
- C. Under section 496, the prosecution must prove actual subjective knowledge of the theft with direct admissible evidence; circumstantial evidence is insufficient as a matter of law to support any conviction.
- D. The defendant cannot be convicted because purchasing personal property with significant prior reduction in price is not in itself a criminal offense in California regardless of any altered identifying marks present on the item.

44. All of the following are accurate statements about a seller's obligation to convey marketable title under California real property law EXCEPT:

- A. Marketable title is title reasonably free from defects, encumbrances, or risks of litigation that would render it unacceptable to a reasonable purchaser.
- B. A recorded but unreleased mechanic's lien generally constitutes a marketable title defect entitling the buyer to demand cure before closing.
- C. The seller's obligation to convey marketable title is implied in every California real estate purchase contract absent express disclaimer in the writing.
- D. Recorded liens that have passed the statutory limitations period for enforcement are automatically deemed extinguished and have no effect on the marketable title in California.

45. At a federal civil trial, a party sought to introduce a series of text messages allegedly sent by the opposing party. The opposing party denied sending the messages. The proponent had no testimony from the actual recipient and could only authenticate the messages through circumstantial evidence including phone records, content references unique to the opposing party, and the timing of the messages. Under Federal Rule of Evidence 901, what is the analysis?

- A. Text messages cannot be authenticated under any circumstances absent direct testimony from the sender confirming authorship of the specific messages in question at trial.
- B. Text messages may be authenticated under Rule 901 through any evidence sufficient to support a finding that the matter is what its proponent claims; circumstantial evidence including phone records, content references, and contextual indicia can satisfy the standard.
- C. Text messages may be authenticated only by the cellular service provider that originally transmitted them through its proprietary network and authentication records of the transmission.
- D. Text messages are inadmissible in federal court unless certified by a forensic digital examiner who has analyzed the original device on which the messages were stored or sent at the time of transmission.

46. A testator's will provided "\$10,000 each to my nieces and nephews." At the time of execution, the testator had four nieces and nephews. After execution, the testator's sister gave birth to two additional children, and the testator's brother-in-law's preexisting niece was adopted into the family. The testator died with seven nieces/nephews. Under California law, who takes the bequest?

- A. Only the original four nieces and nephews living at execution take the bequest because class gifts are fixed at the date of will execution under California probate law as applied to general class gifts.
- B. Only the testator's blood-related nieces and nephews take, excluding adopted family members entirely under California probate principles applicable to class gifts in testamentary instruments.
- C. The class gift "to my nieces and nephews" generally closes at the testator's death under the rule of convenience for outright gifts; the class includes all individuals fitting the description at the testator's death — adopted children of siblings are generally included absent contrary intent.
- D. All persons who fit the description at any time, whether before or after the testator's death, take the bequest including future-born nieces and nephews born after the testator's death.

47. Consider the following statements about race-based admissions policies in higher education following *Students for Fair Admissions v. Harvard* (2023):

I. Race-based classifications by government actors trigger strict scrutiny under federal equal protection doctrine, requiring a compelling government interest narrowly tailored.

II. The Supreme Court in *Students for Fair Admissions v. Harvard* (2023) held that race-based admissions policies as applied by Harvard and the University of North Carolina did not satisfy strict scrutiny.

III. Following *Students for Fair Admissions*, an applicant may still discuss in personal essays how race has affected her life, but a university may not award admissions points or numerical advantage based on race itself.

Which statement(s) accurately describe federal constitutional law?

- A. I, II, and III
- B. I and II only
- C. II and III only
- D. III only

48. A federal civil litigant sought broad discovery from the opposing party including documents, deposition testimony, written interrogatories, and physical examination of a witness who claimed personal

injuries. The opposing party objected to several requests as overbroad and burdensome. Under Federal Rule of Civil Procedure 26(b)(1), the proper analysis is:

A. All discovery requests must be granted in full because the federal rules establish broad pretrial discovery rights without any limitation imposed by burden or relevance considerations in federal civil litigation.

B. Discovery is limited solely to evidence that will be presented at trial; pretrial requests for materials that may not be admissible at trial are categorically barred under the federal rules applicable to civil cases.

C. Discovery is limited to matters specifically authorized by the trial judge through individualized prior order on each discovery request submitted by either party in advance of any document production.

D. Rule 26(b)(1) permits discovery of any nonprivileged matter relevant to a party's claim or defense and proportional to the needs of the case, considering the importance of issues, the amount in controversy, the parties' access to information, resources, and the importance of discovery in resolving the issues.

49. An attorney representing the plaintiff in a civil action knew that the defendant was represented by counsel. While attending a community event, the attorney encountered the defendant socially and began discussing the underlying dispute, eventually offering settlement terms directly to the defendant. The defendant subsequently mentioned the conversation to her own attorney. Under CRPC 4.2, the result is:

A. The conduct is permitted because social encounters at community events are exempt from the formal communication restrictions imposed under California rules of professional conduct on communications with represented persons.

B. The conduct violates CRPC 4.2, which generally prohibits a lawyer from communicating directly with a person the lawyer knows to be represented by another lawyer about the subject of the representation, absent consent of the other lawyer or another narrow exception.

C. The conduct is permitted because the defendant initiated the conversation by attending the same community event as the attorney representing the plaintiff in the underlying dispute over which she is being sued.

D. The conduct violates CRPC 4.2 only if the attorney's communication actually caused the represented party to make legally binding admissions that prejudiced her position in the ongoing civil litigation.

50. A real estate agent told a buyer that a home she was considering "has never had any water damage or flooding issues" based on her belief from talking to the seller. In fact, the home had suffered significant water damage two years earlier. The buyer purchased the home in reliance on the statement and incurred \$40,000 in repair costs after discovering the prior water damage. The buyer sued for negligent misrepresentation. Under California law, what must the buyer show?

- A. The buyer must prove the agent made the statement with actual subjective knowledge of its falsity and with deliberate intent to deceive the buyer before any recovery is available under California negligent misrepresentation doctrine.
- B. The buyer cannot recover because real estate agents owe no duty of accurate disclosure to buyers under California law unless they are dual agents representing both buyer and seller in the same transaction.
- C. The buyer must show (1) a false statement of material fact, (2) made without reasonable grounds to believe it true, (3) with intent to induce reliance, (4) actual reasonable reliance by the buyer, and (5) resulting damages — negligent misrepresentation requires lack of reasonable grounds rather than actual knowledge of falsity.
- D. The buyer must prove the agent had a contractual relationship directly with the buyer rather than acting as the seller's agent before any negligent misrepresentation claim may proceed under California tort law.

PRACTICE EXAM 17: ANSWERS AND EXPLANATION

- 1. C** — Mutual mistake requires (1) both parties mistaken as to a basic assumption on which the contract was made, (2) the mistake has a material effect on the agreed exchange, and (3) the adversely affected party did not bear the risk. Both parties relied on the same outdated 1995 survey representing the timber acreage, satisfying each element. Rescission is the standard remedy under California Civil Code section 1689.
- 2. B** — Under *Gertz v. Robert Welch, Inc.*, private-figure plaintiffs must prove at least negligence by the publisher regarding the truth or falsity of the published statement. Actual malice applies only to public officials and public figures, not private figures. The outlet's failure to verify the current status of the embezzlement charges supplies the negligence element.
- 3. A** — Penal Code section 192(a) defines voluntary manslaughter as an intentional killing upon a sudden quarrel or heat of passion. The provocation must be sufficient to arouse the passions of an ordinarily reasonable person, and the killing must occur before any cooling-off period. The doctrine reduces murder to manslaughter when malice is negated by adequate provocation.
- 4. D** — A joint tenant may unilaterally sever a joint tenancy by conveying her interest to a third party without consent of the other joint tenant (Civil Code section 683.2). Severance converts the joint tenancy into a tenancy in common, eliminating the right of survivorship as to the conveyed share. The non-conveying sibling's one-half interest passes through her estate without survivorship operation.
- 5. B** — *Davis v. Washington* holds that statements made to police or 911 operators primarily to enable assistance with an ongoing emergency are nontestimonial under the primary purpose test. The Confrontation Clause restricts only testimonial hearsay. A 911 call identifying an attacker during an active threat targets emergency response, not preservation of evidence for prosecution.

6. D — Republication by codicil treats a properly executed codicil as re-executing the prior will as of the codicil's date, integrating both instruments into a single estate plan. California recognizes the doctrine, which validates the underlying will and confirms its terms as of the later date. The explicit republication language reinforces operation of the doctrine.

7. C — *Florida v. J.L.* held that an anonymous tip without indicia of reliability — even one that accurately describes a person's location and appearance — does not provide reasonable suspicion for a Terry stop. Predictive accuracy as to identifying details alone is not enough; the tip's underlying assertion of criminal activity must carry independent indicia of reliability. The frisk lacked an adequate Fourth Amendment foundation.

8. A — A constructive trust is an equitable remedy that prevents unjust enrichment by treating wrongfully obtained property (or its proceeds) as held in trust for the rightful owner. Fraud, breach of fiduciary duty, or other inequitable conduct by the defendant supplies the doctrinal trigger. The broker's undisclosed self-dealing while serving as the buyer's agent falls squarely within the doctrine.

9. D — CRPC 1.5 prohibits an unconscionable or illegal fee, and Business and Professions Code section 6147 governs contingency fee agreements. Factors include time and labor required, novelty, complexity, the result obtained, and customary fees for similar services. A 50% fee for three weeks of routine demand-letter work is challengeable as disproportionate to the actual work performed.

10. B — Family Code section 125 defines quasi-community property as property acquired by either spouse while domiciled outside California that would have been community property had the spouses been domiciled in California at acquisition. At dissolution under section 2550, quasi-community property is divided equally like community property. Husband's New York retirement savings qualify because they were earned through marital labor.

11. C — Rule 23(a) requires numerosity, commonality, typicality, and adequacy of representation, with Rule 23(b)(3) adding predominance and superiority for damages classes. Individual class members' personal net worth is not a Rule 23 factor; certification focuses on collective characteristics rather than individualized financial showings. C is the false statement and the correct EXCEPT answer.

12. A — Penal Code section 460(a) limits first-degree burglary to entry of an "inhabited dwelling house" or specified structures functionally connected and contiguous to one. California case authority (*People v. Cruz* and progeny) treats detached, freestanding sheds as separate structures generally falling under second-degree burglary. An unattached storage shed does not satisfy first-degree status under section 460.

13. B — *Craig v. Boren* establishes intermediate scrutiny for gender classifications by government: the classification must be substantially related to an important government interest. Sex-based widow/widower benefit distinctions have repeatedly been struck down because they rest on outdated assumptions about sex roles. The challenged statute likely fails intermediate scrutiny.

14. D — Civil Code section 1624(a)(1) requires a writing only for contracts that cannot, by their terms, be performed within one year of the making. A three-month kitchen remodel can be performed within one year, so the one-year provision does not apply. Other Statute of Frauds categories (land sales, suretyship, etc.) also do not reach this services contract.

15. C — Multiple analytical pathways converge: the driver's observable conditions captured on video are non-hearsay observable facts; any assertive utterances by the driver may qualify as present-sense impressions under Evidence Code section 1241 or as party admissions; the recording itself must be authenticated under section 1400 by a witness with personal knowledge. The recording is not a single-exception analysis but a layered foundation.

16. B — Dependent relative revocation treats a revocation as conditional on the validity of a contemplated replacement instrument. When the new will fails for execution defects, the revocation is set aside and the prior will restored, provided the testator would have preferred the prior will to intestacy. The doctrine prevents the testator's true intent from being defeated by a formal misstep.

17. A — An express recorded easement provides constructive notice to all subsequent purchasers of the burdened estate, who take subject to its terms. The successor cannot unilaterally relocate or extinguish the easement; relocation generally requires the easement holder's consent or strict compliance with limited statutory procedures. Civil Code section 845 and California case law (*Christensen v. Tucker*) confirm the rule.

18. D — Under *In re Marriage of Burgess* and Family Code section 7501, the custodial parent has a presumptive right to relocate, and the non-custodial parent must show the move would be detrimental to the child's best interest. The court considers stability, parent-child relationships, reasons for the move, and impact on visitation, but does not start from scratch on every relocation petition. D is the false statement and correct EXCEPT answer.

19. C — California's alter ego doctrine has two prongs: (1) such unity of interest and ownership that the corporation and shareholder no longer have separate personalities, and (2) recognizing the corporate form would sanction a fraud or promote injustice. Both elements must be established (*Sonora Diamond v. Superior Court*). Commingling, undercapitalization, and ignoring formalities are factors, but no single factor controls.

20. A — California follows the common-law rule that the keeper of a wild animal is strictly liable for injuries caused by the animal's dangerous propensities, regardless of precautions taken. The classification turns on the species, not on the individual animal's prior behavior. A tiger is per se a wild animal even when kept as a pet under proper permits.

21. B — A passive website accessible from a forum state, without additional purposeful targeting or interactivity directed at the forum, generally does not satisfy minimum contacts for specific personal jurisdiction under the Zippo sliding-scale framework. Specific jurisdiction requires purposeful availment of the forum, not merely incidental accessibility. B is the false statement and the correct EXCEPT answer.

22. D — *Horton v. California* establishes that plain view seizure requires (1) lawful presence at the location, (2) the evidence in plain view, and (3) the incriminating character of the item immediately apparent from the surrounding circumstances. The officer's recognition of methamphetamine based on training and experience satisfies the third prong. Inadvertent discovery is no longer required after *Horton*.

23. C — Both statements correctly describe California law. The common-law Rule Against Perpetuities (Probate Code section 21200) and USRAP's 90-year wait-and-see alternative (section 21205) operate side

by side: an interest is valid if it must vest under either standard. The dual framework expands validation while preserving the traditional formulation.

24. A — Probate Code section 250 bars any person who feloniously and intentionally kills the decedent from taking any benefit from the estate, with the property passing as if the slayer predeceased. The statute applies whether the killing is first-degree murder, second-degree murder, or voluntary manslaughter — provided it was felonious and intentional. Voluntary manslaughter satisfies the intent requirement triggering the bar.

25. B — *Griswold v. Connecticut* established that marital privacy in matters of contraception is protected by substantive due process as a fundamental right. Restrictions on this right trigger strict scrutiny — the state must show a compelling interest narrowly tailored. Promoting marital procreation has not been recognized as compelling, and criminalizing contraception by married couples is unconstitutional.

26. C — CRPC 1.8.1 imposes four cumulative requirements on business transactions between lawyer and client: (1) the terms must be fair and reasonable, (2) the lawyer must provide written disclosure of the transaction's terms in understandable language, (3) the lawyer must advise the client in writing to seek independent counsel and provide reasonable opportunity to do so, and (4) the client must give informed written consent. Absence of any element breaches the rule.

27. D — California's race-notice recording statute (Civil Code section 1214) requires a subsequent purchaser to take in good faith, for value, without notice of the prior conveyance, AND to record first. Buyer B's actual knowledge of the earlier sale to Buyer A defeats the "without notice" requirement, regardless of B's first recording. Buyer A prevails despite recording second.

28. A — Penal Code section 21a defines attempt as specific intent to commit the targeted offense plus a direct, unequivocal act in furtherance going beyond mere preparation. The act must mark a substantial step toward completion that, by its character, evidences the criminal purpose. Mere planning is insufficient, but arriving at the scene with combustible materials and approaching the target may cross the line.

29. C — Evidence Code section 1241 admits present-sense impressions — statements describing or explaining an event made while the declarant was perceiving the event or immediately thereafter. Contemporaneity supplies the reliability that substitutes for cross-examination because there is little opportunity for fabrication. The 911 caller's real-time description of the fleeing vehicle squarely qualifies.

30. A — *Hadley v. Baxendale* limits consequential damages to those (1) arising naturally from the breach (general damages) or (2) reasonably foreseeable as a probable result of breach at the time of contracting because of special circumstances communicated. The courier was not informed of the \$50,000 publishing contract, so that consequential loss was not within the parties' contemplation. The plaintiff is limited to general damages.

31. D — 28 U.S.C. § 1446(b)(3) permits removal within 30 days of receipt of papers showing removability, but section 1446(c)(1) imposes an absolute one-year outer limit on diversity-based removals from commencement of the action, absent bad-faith plaintiff conduct. The 14-month delay exceeds the cap. The defendant's diligence after the discovery responses does not override the statutory deadline.

32. A — Probate Code sections 21620–21623 protect after-born or after-adopted children omitted from a will, awarding them their intestate share unless one of three exceptions applies: (1) intentional omission shown on the face of the will, (2) substantial provision through non-testamentary transfer with intent to be in lieu of testamentary gift, or (3) the testator left substantially all the estate to the other parent of the omitted child. The doctrine vindicates the presumed intent of the testator.

33. D — A blanket prohibition on "all leafleting, demonstrations, and signs of any kind" in a public park is not a permissible time/place/manner regulation; it is an excessive restriction that fails narrow tailoring and forecloses ample alternative channels of communication. Public parks are traditional public forums where such broad bans cannot stand. D is the false statement and the correct EXCEPT answer.

34. C — Family Code section 4323(a)(1) creates a rebuttable presumption of decreased need for spousal support when the supported party is cohabiting with a non-marital partner in a marriage-like arrangement. The presumption shifts the burden to the supported party to show continued need; the supporting party may move to modify or terminate. Formal remarriage is not required to trigger this analysis.

35. B — Penal Code section 653f makes it a felony to solicit another to commit murder where the solicitation is verbal or written and the solicitor possesses the specific intent that the crime be committed. Completion of the underlying offense and acceptance by the solicited party are not required — solicitation is complete upon the request with the requisite intent. Detailed instructions and offered payment confirm the necessary intent.

36. A — California Evidence Code section 1521 largely supplanted the traditional best evidence rule. Secondary evidence (testimony, copies) is now admissible to prove a writing's contents unless the court finds (1) a genuine dispute exists about material terms and justice requires exclusion, or (2) admission would be unfair. The witness's recollection of the contract terms is admissible under this more permissive standard.

37. C — California junior-lien foreclosure wipes out junior liens but takes subject to senior liens; the foreclosure buyer purchases subject to the senior mortgage and other prior recorded interests. Bank A's first-recorded deed of trust survives Bank B's foreclosure; Bank C's third-recorded lien is wiped out by the senior junior's foreclosure. Bank C may seek a personal judgment subject to applicable antideficiency rules.

38. A — Probate Code section 15642 lists grounds for trustee removal: serious breach of trust, lack of cooperation among co-trustees substantially impairing administration, unfitness or persistent inability to administer, or other grounds in the beneficiaries' best interests. Self-dealing transactions and three-year failure to provide accountings squarely satisfy the first and fourth grounds. Judicial removal is a core protective mechanism for trust beneficiaries.

39. B — *Bell Atlantic Corp. v. Twombly* and *Ashcroft v. Iqbal* establish the plausibility pleading standard for Rule 12(b)(6): a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. Threadbare recitations and legal conclusions do not suffice. Well-pleaded facts are accepted as true, but conclusory allegations and legal labels are not.

40. D — CRPC 5.5 prohibits the unauthorized practice of law in California. An out-of-state attorney may engage in limited temporary practice tied to ongoing litigation through narrow exceptions, but providing direct legal advice to a California client on California state law without pro hac vice admission or association with California counsel violates the rule. The exceptions are narrow and require strict procedural compliance.

41. C — Separate property funds commingled with community funds retain separate character only if the spouse can trace them through recognized methods — direct tracing (identifying the specific separate funds remaining) or family-expense exhaustion (showing community funds were consumed for community expenses, leaving only separate funds). Without successful tracing, the community property presumption of Family Code section 760 governs. The burden is on the proponent of separate character.

42. B — Both statements correctly describe federal Establishment Clause doctrine. The Lemon test's three prongs (secular purpose, no primary effect of advancing/inhibiting religion, no excessive entanglement) remain influential, though later decisions added the endorsement test (O'Connor) and coercion test (Kennedy in *Lee v. Weisman*). Recent decisions (*Kennedy v. Bremerton*, 2022) have further refined but not entirely supplanted the framework.

43. A — Penal Code section 496 criminalizes receiving stolen property where the defendant either actually knew or had reasonable cause to believe the property was stolen. Knowledge may be inferred from circumstantial evidence such as a vastly below-market purchase price, altered or removed identifying marks, and suspicious circumstances of sale. The \$50 price for a \$2,500 laptop with an obliterated serial number supports inferred knowledge.

44. D — A recorded but unreleased lien may continue to cloud title even after the underlying obligation becomes time-barred for direct enforcement; the recorded instrument itself remains an encumbrance affecting marketability until formally released or quieted by court action. Statement D incorrectly suggests automatic extinguishment, making it the false statement and the correct EXCEPT answer.

45. B — Federal Rule of Evidence 901(a) requires only evidence sufficient to support a finding that the matter is what its proponent claims. Authentication of text messages may proceed through circumstantial evidence — phone records, unique content references, contextual indicia, and patterns of communication — without direct testimony from the sender or service provider. The standard is intentionally flexible to accommodate digital evidence.

46. C — A class gift to "my nieces and nephews" generally closes under the rule of convenience at the testator's death when the distribution is outright (not postponed). Under California Probate Code section 21115, adopted children are generally treated as natural children of their adoptive parents for class gift purposes unless contrary intent appears. All seven nieces and nephews qualifying at the testator's death are included absent contrary indication.

47. A — All three statements correctly describe federal equal protection doctrine following *Students for Fair Admissions v. Harvard* (2023). Race-based government classifications trigger strict scrutiny; the 2023 decision held the Harvard and UNC programs failed that scrutiny; and the Court preserved an applicant's ability to discuss in essays how race has affected her life while prohibiting race itself as a numerical admissions factor. The integrated framework captures the current law.

48. D — Federal Rule of Civil Procedure 26(b)(1), as amended in 2015, expressly incorporates proportionality into the scope of discovery. Discovery is limited to nonprivileged matter relevant to a party's claim or defense and proportional to the needs of the case, considering issue importance, amount in controversy, parties' access to information, resources, and the importance of discovery in resolving issues. The amendment was designed to curb runaway discovery.

49. B — CRPC 4.2 generally prohibits a lawyer from communicating directly with a person the lawyer knows to be represented by another lawyer in the matter, absent the other lawyer's consent or another authorized exception. Social setting does not create an exception; the rule applies wherever the represented person is encountered. Direct settlement discussions are quintessentially "communications about the subject of the representation."

50. C — California negligent misrepresentation requires (1) a misrepresentation of material fact, (2) without reasonable grounds for believing it true, (3) made with intent to induce reliance, (4) actual justifiable reliance, and (5) resulting damages. The standard differs from intentional fraud (which requires actual knowledge of falsity or reckless disregard) by substituting "without reasonable grounds" for actual knowledge. Agents repeating seller statements without verification typically satisfy this lesser standard.