

PRACTICE EXAM 18: CALIFORNIA ESSAY EXAM SIMULATION (50 QUESTIONS)

1. What is the proper approach when an essay's call asks "what arguments can be made" by each party?
 - A. Conclude in favor of the more sympathetic party without arguing each side at all
 - B. Present only the plaintiff's arguments since the defendant's position is irrelevant
 - C. Present each party's strongest arguments and analyze the relative merits
 - D. Refuse to address either side because the call is too vague to answer

2. A California essay involving a question of the doctrine of laches in equity requires analysis of:
 - A. Unreasonable delay by the plaintiff and resulting prejudice to the defendant
 - B. Whether the plaintiff has retained counsel licensed in equitable matters in California
 - C. Whether the plaintiff has paid all filing fees in the equitable action up to the date in full
 - D. Whether the plaintiff has filed parallel actions in any other state jurisdictions concurrently

3. When a California essay involves both testamentary capacity and undue influence claims, the examinee should:
 - A. Conclude both claims always succeed when raised together in any will contest
 - B. Address only the capacity claim because undue influence is duplicative of incapacity
 - C. Address only the undue influence claim because incapacity is rarely proven at trial
 - D. Analyze each claim under its own elements because they require distinct showings of proof

4. A California essay involving a question of the duty of disclosure in real estate sales requires analysis of:

- A. Whether the seller has been previously sued in any prior similar real estate matters of record
- B. Whether the seller knew or should have known of material facts affecting the property's value
- C. Whether the seller has retained counsel licensed in real estate matters in California currently
- D. Whether the seller holds a current California real estate broker's license at the time of sale

5. When a California essay involves a question of the doctrine of unilateral mistake in Contracts, the examinee should analyze:

- A. Whether the mistake was material and the non-mistaken party knew or should have known
- B. Whether the parties had retained counsel during the contractual negotiations originally signed
- C. Whether the parties had transacted business together in any prior similar contracts before this
- D. Whether the parties signed the contract in front of a California licensed notary public at signing

6. A California essay involving the doctrine of foreseeability in contract damages requires analysis of:

- A. Whether the breaching party has paid any prior contract damages in similar prior actions filed
- B. Whether the breaching party has retained licensed California contract counsel for the action filed
- C. Whether the damages were within the reasonable contemplation of the parties at contract formation
- D. Whether the breaching party has been previously involved in any prior similar contract matters

7. When a California essay involves a question of the doctrine of impleader (third-party practice), the examinee should analyze:

- A. Whether the third-party defendant has retained counsel licensed in California currently in court at trial
- B. Whether the third-party defendant has been previously involved in any prior similar impleader matters
- C. Whether the third-party defendant has paid all required filing fees in any prior related actions of record

D. Whether the third party may be liable to the defendant for all or part of the plaintiff's claim

8. A California essay involving the requirements of a valid bequest in a will requires analysis of:

A. The testator's intent to make a gift effective at death and identification of the property and beneficiary

B. Whether the bequest was made in writing within thirty days of the testator's death in California

C. Whether the bequest was reviewed by an attorney before the will was signed by the testator timely

D. Whether the bequest was witnessed by at least three independent witnesses present at signing

9. When a California essay involves a question of an attorney's duty to supervise nonlawyer staff, the examinee should analyze:

A. Whether the attorney has held a California license for at least five years of active practice

B. Whether the attorney made reasonable efforts to ensure that the nonlawyer's conduct complied with the rules

C. Whether the attorney has been previously disciplined by the State Bar in any prior matter on record

D. Whether the attorney has retained licensed California counsel for any professional matters at issue

10. A California essay involving the doctrine of nuisance in Real Property requires analysis of:

A. Whether the property has been recorded with the county recorder's office timely at conveyance in full

B. Whether the property has been recently surveyed by a licensed California land surveyor at issue at trial

C. Substantial and unreasonable interference with the plaintiff's use and enjoyment of the property

D. Whether the property has been previously subject to similar nuisance complaints in prior actions filed

11. When a California essay involves a question of the doctrine of merger of contract terms, the examinee should analyze:

A. Whether the parties signed the contract in front of a California licensed notary public at the signing

- B. Whether the contract contains a merger clause and whether the writing is fully integrated
- C. Whether the contract was reviewed by an attorney before the parties signed it timely on the deal at issue
- D. Whether the parties had transacted business together in any prior similar matters before this deal

12. A California essay involving the doctrine of intentional infliction of emotional distress requires:

- A. Conclusion that all emotional distress claims succeed as long as the plaintiff has suffered upset at some level
- B. Application of only federal common law standards on emotional distress claims without state law applied
- C. Conclusion that no emotional distress claim is recognized in California state court ever filed at trial
- D. Analysis of extreme and outrageous conduct, intent or recklessness, causation, and severe distress

13. When a California essay involves a question of the doctrine of mootness, the examinee should analyze:

- A. Whether the parties have paid all costs in the underlying action up to the present date in full
- B. Whether the parties have retained licensed California counsel admitted for the action at issue at trial
- C. Whether a live controversy exists between the parties or whether subsequent events have made it moot
- D. Whether the parties have filed parallel actions in any other state forums concurrently filed at trial

14. A California essay involving a question of the doctrine of attempt in Criminal Law requires analysis of:

- A. Specific intent to commit the target offense and a direct but ineffectual act toward commission
- B. Whether the defendant has prior convictions for any felonies on record in California state currently
- C. Whether the defendant has retained admitted criminal defense counsel for the action at trial currently
- D. Whether the defendant has been previously charged with similar offenses in any prior actions of record

15. When a California essay involves a question of the duty of care in negligence, the examinee should analyze:

- A. Whether the defendant owed the plaintiff a duty of care under California's foreseeability analysis
- B. Whether the defendant has been previously sued in any prior similar negligence matters of record
- C. Whether the defendant has paid any prior negligence judgments in similar tort actions filed at trial
- D. Whether the defendant has retained licensed California tort defense counsel for the action at trial

16. A California essay involving the doctrine of waiver of evidentiary objections requires analysis of:

- A. Whether the party has paid all costs of the prior proceeding involved in the matter at issue in full
- B. Whether the party has retained licensed counsel admitted in California for the matter at trial in court
- C. Whether the party has been previously involved in any prior similar evidence matters of record at trial
- D. Whether the party timely objected and stated the specific ground for the objection raised

17. When a California essay involves a question of the doctrine of joint tenancy with right of survivorship, the examinee should analyze:

- A. Whether the parties have retained counsel licensed in real estate matters in California currently practicing
- B. Whether the four unities of time, title, interest, and possession are present in the conveyance
- C. Whether the parties have paid all property taxes on the disputed property timely each year of ownership
- D. Whether the parties have been previously involved in any prior similar joint tenancy matters at trial

18. A California essay involving the doctrine of frustration in Contracts requires analysis of:

- A. Whether the principal purpose was substantially frustrated by an unforeseen event without fault
- B. Whether the parties signed the contract in front of a California licensed notary public at signing
- C. Whether the parties had retained counsel during the contractual negotiations originally signed timely
- D. Whether the parties had transacted business together in any prior similar contracts before now at issue

19. When a California essay involves a question of the doctrine of presumption of innocence in Criminal Law, the examinee should analyze:

- A. Whether the defendant has retained admitted criminal defense counsel for the action at trial in court
- B. Whether the prosecution has filed all required discovery within the period set by the court of record
- C. Whether the defendant has been previously charged with similar offenses in any prior actions on record
- D. Whether the prosecution has proven each element of the offense beyond a reasonable doubt

20. A California essay involving the doctrine of misrepresentation in Property requires analysis of:

- A. Whether the property has been recorded with the county recorder's office timely at the conveyance
- B. Whether the property has been recently appraised by a licensed California appraiser at the time of sale
- C. The misrepresentation of a material fact, scienter, intent to induce reliance, reliance, and damages
- D. Whether the property has been previously subject to similar misrepresentations in any prior sales

21. When a California essay involves a question of the doctrine of judicial review of agency action, the examinee should analyze:

- A. Whether the petitioner has paid all administrative filing fees in the prior agency proceeding in full
- B. Whether the petitioner has retained admitted counsel for the judicial review petition filed timely at trial
- C. The applicable standard of review and whether the agency action satisfies that standard of review
- D. Whether the petitioner has filed parallel actions in any other administrative forums concurrently filed

22. A California essay involving the doctrine of the merchant's exception under the UCC Statute of Frauds requires:

- A. Conclusion that all merchant transactions are exempt from the Statute of Frauds without exception
- B. Analysis of whether a written confirmation between merchants was sent and timely objected to
- C. Application of only the common law Statute of Frauds without the UCC merchant exception applied

D. Conclusion that the merchant exception applies only to oral contracts under any circumstances

23. When a California essay involves a question of the doctrine of accomplice testimony in Criminal Law, the examinee should analyze:

- A. Whether the accomplice has retained admitted counsel for the proceeding at issue at trial in court
- B. Whether the accomplice testimony is corroborated by other evidence as required by California law
- C. Whether the accomplice has prior convictions for any felonies on record in California state currently
- D. Whether the accomplice has been previously involved in any prior similar accomplice matters at trial

24. A California essay involving the doctrine of riparian water rights requires analysis of:

- A. Whether the property has been recorded with the county recorder's office timely at the conveyance
- B. Whether the property has been recently surveyed by a licensed California land surveyor at issue at trial
- C. Whether the property has been previously subject to similar water rights claims in any prior actions
- D. The reasonable use of water by a landowner whose property borders a watercourse

25. When a California essay involves a question of the doctrine of estoppel in pais (equitable estoppel), the examinee should analyze:

- A. Whether the parties have paid all filing fees in the equitable action up to the present date in full
- B. Whether the parties have retained licensed California equitable counsel for the action at trial timely
- C. A representation by one party, reliance by another, and a change of position to detriment based on reliance
- D. Whether the parties have filed parallel actions in any other forums of record concurrently filed at trial

26. A California essay involving the doctrine of de jure corporation requires analysis of:

- A. Whether the corporation has substantially complied with all mandatory statutory formation requirements

- B. Whether the corporation has been previously involved in any prior similar formation matters at trial
- C. Whether the corporation has retained licensed California corporate counsel for any prior matters filed
- D. Whether the corporation has filed parallel actions in any other state forums of record concurrently

27. When a California essay involves a question of the doctrine of best evidence rule exceptions, the examinee should analyze:

- A. Whether the proponent has filed the evidence with the court at least thirty days in advance of the trial
- B. Whether the proponent has retained admitted California evidence counsel for the action at trial in court
- C. Whether the proponent has been previously involved in any prior similar evidence matters of record at trial
- D. Whether the original is lost, destroyed, unobtainable, or controlled by the opposing party

28. A California essay involving the doctrine of trespass to chattels requires analysis of:

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

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

- A. Whether the supervising party knew or should have known of the supervised party's incompetence or unfitness
- B. Whether the supervising party has paid any prior tort judgments in similar negligent supervision matters filed

C. Whether the supervising party has retained licensed California tort counsel for the action at trial currently

D. Whether the supervising party has been previously involved in any prior similar supervision matters of record

30. A California essay involving the doctrine of revocation of an offer requires analysis of:

A. Whether the parties signed the contract in front of a California licensed notary public at the signing in California

B. Whether the offeror communicated the revocation to the offeree before acceptance and whether any exception applies

C. Whether the offeror has retained licensed California counsel for the action at trial in court currently practicing

D. Whether the offeror has been previously involved in any prior similar revocation matters of record at trial in court

31. When a California essay involves a question of the division of marital property at dissolution, the examinee should:

A. Apply only the federal community property rules to the marital property division question in California

B. Apply only the equitable distribution rules used in most other states to California marital property division

C. Apply the Restatement of Family Law principles on marital property division generally in California state

D. Apply California's community property rules requiring equal division at marital dissolution

32. A California essay involving the doctrine of self-defense in criminal law requires analysis of:

A. Whether the defendant carried a concealed weapon at the time of the alleged offense at issue at trial in court

B. The defendant's honest and reasonable belief in imminent harm and the proportionality of force used

C. Whether the defendant has prior convictions for any felonies on record in California state at trial in court

D. Whether the defendant has retained admitted criminal defense counsel for the action at trial currently in court

33. When a California essay involves a question of the doctrine of testamentary intent, the examinee should analyze:

A. Whether the testator intended the document to operate as a will at the time of its execution

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

C. Whether the testator has retained admitted California probate counsel for the will execution at issue at trial

D. Whether the testator has been previously involved in any prior will execution matters of record at trial in court

34. A California essay involving the doctrine of the implied warranty of title requires analysis of:

A. Whether the seller has paid all property taxes on the disputed property timely each year of ownership in full

B. Whether the seller has retained counsel licensed in real estate matters in California currently practicing actively

C. Whether the seller has been previously involved in any prior similar warranty matters of record at trial in court

D. Whether the seller covenants that the title conveyed is free from undisclosed encumbrances and good

35. When a California essay involves a question of the parol evidence rule and a partially integrated agreement, the examinee should:

A. Apply the rule to exclude all extrinsic evidence regardless of the agreement's purpose at issue at trial

B. Apply the rule to exclude contradictory evidence but permit supplementary evidence on consistent terms

- C. Apply the rule to permit all extrinsic evidence regardless of the writing's integration status at signing
- D. Apply only the federal rules of evidence without any California-specific distinctions on parol evidence

36. A California essay involving the doctrine of fraud in the execution requires analysis of:

- A. Whether the parties signed the contract in front of a California licensed notary public at signing in California
- B. Whether the parties had retained counsel during the contractual negotiations originally at the deal at signing
- C. Whether the defrauded party was tricked into signing without understanding the document's nature
- D. Whether the parties had transacted business together in any prior similar contracts before this matter at issue

37. When a California essay involves a question of the doctrine of conspiracy in tort law, the examinee should analyze:

- A. Whether two or more persons agreed to commit an unlawful act resulting in damages to the plaintiff
- B. Whether the alleged conspirators have paid any prior tort judgments in similar conspiracy matters filed at trial
- C. Whether the alleged conspirators have retained licensed California tort counsel for the action at trial currently
- D. Whether the alleged conspirators have been previously involved in any prior conspiracy matters at trial in court

38. A California essay involving the doctrine of constructive notice in Real Property requires analysis of:

- A. Whether the recorded notice was filed with the California Secretary of State at the time of conveyance
- B. Whether the parties have paid all property taxes on the disputed property timely each year of ownership
- C. Whether the parties have retained counsel licensed in real estate matters in California currently practicing
- D. Whether the recording of the instrument provides notice to the world of the recorded interest

39. When a California essay involves a question of the doctrine of business judgment rule, the examinee should analyze:

- A. Whether the directors have paid all California franchise taxes for the year of the business decision in full
- B. Whether the directors acted in good faith, on an informed basis, and in the corporation's best interest
- C. Whether the directors have retained licensed California corporate counsel for the action at trial in court
- D. Whether the directors have been previously involved in any prior similar corporate matters of record at trial

40. A California essay involving the doctrine of revocable trust amendment requires analysis of:

- A. Whether the trustee has filed all required California state tax returns timely each year of the trust at issue
- B. Whether the trustee has retained licensed California trust counsel for the trust matter at issue at trial currently
- C. Whether the settlor amended the trust by the method specified in the trust or by California statute
- D. Whether the trustee has been bonded by a California-licensed surety company for the trust assets at start

41. When a California essay involves a question of the doctrine of standing to challenge a will, the examinee should analyze:

- A. Whether the contestant has a financial interest that would be adversely affected by the will's probate
- B. Whether the contestant has retained admitted California probate counsel for the action at trial in court timely
- C. Whether the contestant has been previously involved in any prior probate matters in the state of record at trial
- D. Whether the contestant has paid all filing fees in the probate action up to the present date in full at issue

42. A California essay involving the doctrine of unconstitutional vagueness requires analysis of:

- A. Whether the plaintiff has paid all federal court filing fees in the underlying federal court action in full at trial
- B. Whether the plaintiff has retained admitted federal counsel for the vagueness challenge at trial in court timely
- C. Whether the law fails to provide fair notice of prohibited conduct or invites arbitrary enforcement
- D. Whether the plaintiff has filed parallel state actions before bringing the federal vagueness claim of record

43. When a California essay involves a question of an attorney's duty to a former client, the examinee should analyze:

- A. Whether the attorney has held a California license for at least five years of active legal practice currently
- B. Whether the matter is substantially related to the prior representation and whether informed written consent applies
- C. Whether the attorney has been previously disciplined by the State Bar in any prior matter on record at trial
- D. Whether the attorney has retained licensed California counsel for the professional matter at issue currently

44. A California essay involving the doctrine of the right to confront witnesses requires analysis of:

- A. Whether the defendant has prior convictions for any felonies on record in California state currently at trial
- B. Whether the defendant has retained admitted criminal defense counsel for the action at trial currently in court
- C. Whether the defendant has been previously involved in any prior confrontation clause matters of record at trial
- D. Whether the testimonial out-of-court statement is offered against the defendant without an opportunity to cross-examine

45. When a California essay involves a question of the doctrine of a third-party donee beneficiary, the examinee should analyze:

- A. Whether the contracting parties intended the third party to receive the contract performance as a gift
- B. Whether the parties signed the contract in front of a California licensed notary public at signing in California
- C. Whether the parties had transacted business together in any prior similar contracts before this matter at issue
- D. Whether the parties had retained legal counsel during the contractual negotiations originally signed on the deal

46. A California essay involving the doctrine of foreseeability in negligence requires analysis of:

- A. Whether the defendant has paid any prior negligence judgments in similar tort actions filed at trial in court
- B. Whether the defendant has retained licensed California tort counsel for the action at trial currently in court
- C. Whether the harm to the plaintiff was a foreseeable result of the defendant's conduct at issue
- D. Whether the defendant has been previously involved in any prior similar foreseeability matters at trial in court

47. When a California essay involves a question of the Statute of Frauds and the one-year provision, the examinee should analyze:

- A. Whether the parties signed the agreement in front of a California licensed notary public at signing in California
- B. Whether the contract cannot possibly be performed within one year from the time of formation
- C. Whether the parties had transacted business together in any prior similar agreements before this matter at issue
- D. Whether the parties had retained legal counsel during the contractual negotiations originally signed on the deal

48. A California essay involving the doctrine of the express trust requires analysis of:

- A. The settlor's intent, identifiable trust property, ascertainable beneficiaries, and a valid trust purpose

- B. Whether the trust was registered with the California Probate Court at the time of creation timely in full
- C. Whether the trustee has been bonded by a California-licensed surety company for the trust assets at start
- D. Whether the trustee has filed all required California state tax returns timely each year of the trust at issue

49. When a California essay involves a question of the right to remain silent under Miranda, the examinee should analyze:

- A. Whether the defendant has retained admitted criminal defense counsel for the action at trial in court currently
- B. Whether the prosecution has filed all required discovery within the period set by the court of record at trial
- C. Whether the defendant has been previously involved in any prior Miranda matters of record at trial in court
- D. Whether the suspect was in custody and subject to interrogation when the statement was made

50. A California essay involving the doctrine of the implied easement by necessity requires analysis of:

- A. Whether the property has been recorded with the county recorder's office timely at the conveyance in full
- B. Whether the property has been recently surveyed by a licensed California land surveyor at issue at trial
- C. Whether the easement is strictly necessary for use of the dominant estate, and the estates were once united
- D. Whether the property has been previously subject to similar easements in any prior conveyances filed at trial

PRACTICE EXAM 18: CALIFORNIA ESSAY EXAM SIMULATION – ANSWER KEY

- 1. C** — A "what arguments can be made" call requires presenting each party's strongest arguments and analyzing the relative merits. The call invites balanced advocacy, with the examinee constructing the best case for each side and assessing which position is more legally defensible. Refusing to argue or favoring one party without analysis forfeits the points allocated to both sides.
- 2. A** — Laches requires unreasonable delay by the plaintiff plus resulting prejudice to the defendant. Both elements are required, and the defense focuses on the equities of delay rather than a fixed statutory period. The doctrine can bar stale claims even when the limitations period has not yet run.
- 3. D** — Testamentary capacity and undue influence each have distinct elements requiring separate analysis. Capacity (Probate Code §6100.5) tests the testator's understanding of the act, property, and natural objects of bounty; undue influence (Probate Code §86) tests external pressure overcoming the testator's free will. Both must be analyzed independently.
- 4. B** — Real estate seller disclosure requires the seller to disclose material facts known or that should have been known. California Civil Code §1102 et seq. mandates the Transfer Disclosure Statement for residential sales, and common-law duties impose broad disclosure of material defects affecting value. Knowledge or constructive knowledge is the trigger.
- 5. A** — Unilateral mistake permits avoidance when the mistake is material and the non-mistaken party knew or should have known of it. The non-mistaken party's awareness creates the inequity that justifies avoidance, distinguishing unilateral mistake from cases where both parties are equally innocent of the error.
- 6. C** — Foreseeability in contract damages turns on the reasonable contemplation of the parties at contract formation. *Hadley v. Baxendale* limits recoverable consequential damages to those that arise naturally from the breach or were reasonably contemplated by the parties at contracting. The contemplation must be present at formation, not later.
- 7. D** — Impleader analysis asks whether the third party may be liable to the defendant for all or part of the plaintiff's claim. FRCP 14 and California CCP §428.70 permit impleader for derivative liability such as indemnity, contribution, or subrogation, but not for the third party's separate liability to the plaintiff.
- 8. A** — A valid bequest requires the testator's intent for the gift to take effect at death plus identification of the property and beneficiary. The testamentary intent and identification elements distinguish a bequest from an inter vivos gift and ensure the gift can be administered in probate.
- 9. B** — The duty to supervise nonlawyer staff requires reasonable efforts to ensure rule-compliant conduct. ABA Model Rule 5.3 and California Rule 5.3 hold lawyers responsible for nonlawyer assistants' conduct that would violate professional rules if engaged in by the lawyer. Reasonable efforts include training, supervision, and policies.

10. C — Nuisance requires substantial and unreasonable interference with the plaintiff's use and enjoyment of property. Both substantial harm and unreasonableness must be shown, with unreasonableness assessed by balancing the gravity of harm against the utility of the defendant's conduct under Restatement (Second) of Torts §826.

11. B — Merger clause analysis turns on whether the contract contains a merger clause and whether the writing is fully integrated. A merger clause is strong evidence of full integration; full integration excludes both contradictory and supplementary extrinsic evidence, while partial integration excludes only contradictory evidence.

12. D — IIED requires extreme and outrageous conduct, intent or recklessness, causation, and severe emotional distress. All four elements must be established; the extreme-and-outrageous conduct prong is the highest hurdle, as most cases fail at this step. Mere insults or rudeness do not qualify.

13. C — Mootness asks whether a live controversy exists or whether subsequent events have made the case moot. Federal courts lack power to issue advisory opinions, subject to recognized exceptions such as capable of repetition yet evading review, voluntary cessation, and collateral consequences.

14. A — Attempt requires specific intent to commit the target offense and a direct but ineffectual act toward commission. California requires the act to go beyond mere preparation, often analyzed under the substantial step or direct-act tests. Both intent and act elements are required.

15. A — Duty of care in California negligence is analyzed under foreseeability and the multi-factor Rowland v. Christian framework. The Rowland factors include foreseeability of harm, certainty of injury, closeness of connection, moral blame, policy, burden, and insurance availability. Foreseeability is the primary factor.

16. D — Evidentiary objections are waived absent timely objection on specific grounds. California Evidence Code §353 and FRE 103 require both timeliness (at or before the evidence is offered) and specificity (stating the precise ground) to preserve the issue for appeal.

17. B — Joint tenancy requires the four unities of time, title, interest, and possession to be present at creation. Disruption of any unity after creation severs the joint tenancy and converts it to a tenancy in common, terminating the right of survivorship. All four unities must be analyzed.

18. A — Frustration of purpose excuses performance when the principal purpose of the contract was substantially frustrated by an unforeseen event without the party's fault. The doctrine differs from impossibility because performance remains possible, but the value has been destroyed by the supervening event.

19. D — The presumption of innocence requires the prosecution to prove each element of the offense beyond a reasonable doubt. In re Winship constitutionalized this standard under the Due Process Clause, placing the burden of persuasion squarely on the prosecution for every element.

- 20. C** — Misrepresentation in property transactions requires misrepresentation of a material fact, scienter, intent to induce reliance, reliance, and damages. These five elements mirror common-law fraud and apply equally in property contexts. Each element must be established.
- 21. C** — Judicial review of agency action requires identifying the applicable standard of review and assessing whether the agency action satisfies it. California courts apply independent judgment, substantial evidence, or abuse of discretion depending on the nature of the agency action and the interests at stake. The standard drives the analysis.
- 22. B** — The UCC merchant's exception requires a written confirmation between merchants that was not timely objected to. UCC §2-201(2) makes a written confirmation satisfying the Statute of Frauds against a merchant recipient who fails to object in writing within ten days of receipt.
- 23. B** — California requires accomplice testimony to be corroborated by independent evidence. California Penal Code §1111 prohibits conviction on an accomplice's testimony alone, requiring independent evidence tending to connect the defendant to the commission of the offense.
- 24. D** — Riparian water rights govern the reasonable use of water by a landowner whose property borders a watercourse. California uses a correlative-rights system in which each riparian holder's use must be reasonable in light of other riparian users' needs. Use must be on riparian land for riparian purposes.
- 25. C** — Equitable estoppel (estoppel in pais) requires a representation by one party, reliance by another, and a change of position to detriment based on the reliance. The doctrine prevents a party from asserting a position inconsistent with prior conduct when reliance has produced detrimental change.
- 26. A** — A de jure corporation requires substantial compliance with all mandatory statutory formation requirements. When substantial compliance is achieved, the corporation exists by right and cannot be collaterally attacked, even by the state in a quo warranto proceeding.
- 27. D** — Best evidence rule exceptions arise when the original is lost, destroyed, unobtainable, or controlled by the opposing party. FRE 1004 and California Evidence Code §1523 codify these and similar exceptions (collateral matter, public records), permitting secondary evidence under defined conditions.
- 28. C** — Trespass to chattels requires intentional interference with the plaintiff's possession of personal property causing dispossession or damage. The interference must be sufficient to support recovery, typically requiring actual harm to the chattel, substantial loss of use, or dispossession.
- 29. A** — Negligent supervision requires the supervising party to have known or should have known of the supervised party's incompetence or unfitness. The duty arises when there is a foreseeable risk that the supervised party's unfitness will cause harm to others within the scope of the supervisor's responsibility.
- 30. B** — Offer revocation requires communication of the revocation to the offeree before acceptance, subject to recognized exceptions. Exceptions include option contracts supported by consideration, firm offers under UCC §2-205, unilateral contract part performance, and detrimental reliance under promissory estoppel.

- 31. D** — California is a community property state requiring equal division of community property at marital dissolution. California Family Code §2550 mandates equal division absent written agreement or specified statutory exceptions, distinguishing California from the equitable-distribution states.
- 32. B** — Self-defense in California requires an honest and reasonable belief in imminent harm plus proportional force. California Penal Code §197 and case law codify the doctrine, with both the subjective and objective belief components required, and force limited to what is necessary to repel the threat.
- 33. A** — Testamentary intent requires the testator to have intended the document to operate as a will at the time of execution. Without testamentary intent at execution, the document is not a will regardless of its formal compliance with execution requirements; intent is the threshold question.
- 34. D** — The implied warranty of title covenants that the title conveyed is free from undisclosed encumbrances and is good. California Civil Code §1113 implies these warranties in grant deeds (covenant against grantor's encumbrances, covenant that grantor has not previously conveyed), with breach occurring at conveyance.
- 35. B** — A partially integrated agreement excludes contradictory extrinsic evidence but permits supplementary evidence on consistent terms. Restatement (Second) of Contracts §216 codifies this approach, distinguishing partial from full integration on the basis of whether the writing was intended as a complete statement.
- 36. C** — Fraud in the execution requires the defrauded party to have been tricked into signing without understanding the document's nature. The fraud goes to the very character of the instrument signed, distinguishing it from fraud in the inducement, which concerns the substance of the bargain rather than the document itself.
- 37. A** — Tort conspiracy requires two or more persons to have agreed to commit an unlawful act resulting in damages to the plaintiff. Civil conspiracy is not itself a tort but a theory of joint liability for an underlying tort committed pursuant to the agreement; an underlying wrong is required.
- 38. D** — Constructive notice through recording provides notice to the world of the recorded interest. California Civil Code §1213 and the recording statutes give recorded instruments constructive notice effect, protecting subsequent bona fide purchasers and lienholders against prior unrecorded interests.
- 39. B** — The business judgment rule protects directors who acted in good faith, on an informed basis, and in the honest belief their decision was in the corporation's best interest. The rule creates a presumption of validity that shareholders must rebut to challenge a board decision in litigation.
- 40. C** — Revocable trust amendments must follow the method specified in the trust or the statutory default. California Probate Code §15402 permits amendment by the method specified in the trust; absent specification, §15401 provides default amendment by writing signed by the settlor and delivered to the trustee.

- 41. A** — Standing to challenge a will requires a financial interest that would be adversely affected by the will's probate. California Probate Code §48 defines "interested person" to include heirs, beneficiaries under the will or a prior will, creditors, and others whose pecuniary interests would be affected.
- 42. C** — Unconstitutional vagueness occurs when a law fails to provide fair notice of prohibited conduct or invites arbitrary enforcement. *Grayned v. City of Rockford* established these dual concerns — notice and arbitrary enforcement — that render vague statutes void under the Due Process Clause.
- 43. B** — Duties to former clients turn on whether the matter is substantially related to the prior representation and whether informed written consent applies. California Rule of Professional Conduct 1.9 prohibits adverse representation in substantially related matters without informed written consent from the former client.
- 44. D** — The Confrontation Clause asks whether a testimonial out-of-court statement is offered against the defendant without opportunity to cross-examine. *Crawford v. Washington* redefined Confrontation Clause analysis around testimonial statements, requiring either prior cross-examination opportunity or witness unavailability and prior opportunity to cross-examine.
- 45. A** — A third-party donee beneficiary status requires the contracting parties to have intended the third party to receive performance as a gift. Donee beneficiaries can enforce the contract if they were intended (not incidental) beneficiaries; the intent is shown by the contract terms, performance directed to the beneficiary, and gift purpose.
- 46. C** — Foreseeability in negligence asks whether the harm to the plaintiff was a foreseeable result of the defendant's conduct. Foreseeability functions both as a duty determinant under *Rowland v. Christian* and as a proximate cause requirement under *Palsgraf* principles, limiting the scope of negligence liability.
- 47. B** — The Statute of Frauds one-year provision applies when the contract cannot possibly be performed within one year from the time of formation. The test is impossibility, not improbability; if performance within a year is possible, the statute does not apply, even if performance actually takes longer.
- 48. A** — An express trust requires the settlor's intent, identifiable trust property, ascertainable beneficiaries, and a valid trust purpose. California Probate Code §15201 et seq. codifies these elements. Each must be established for the trust to be valid; the absence of any element defeats trust creation.
- 49. D** — Miranda warnings are required only when the suspect was in custody and subject to interrogation when the statement was made. Both prongs must be present — custody alone or interrogation alone does not trigger Miranda — and both must be analyzed before assessing waiver, invocation, or any exception.
- 50. C** — Easement by necessity requires strict necessity for use of the dominant estate and prior unity of title between the dominant and servient estates. The doctrine recognizes an implied easement when severance of a single parcel landlocks one portion, requiring access across the other portion of the formerly unified property.