

PRACTICE EXAM 19: CALIFORNIA ESSAY EXAM SIMULATION (50 QUESTIONS)

1. What is the proper approach to a California Bar essay question that involves both substantive and procedural issues?
 - A. Address only the substantive issues because procedure is not heavily tested on essays
 - B. Address both substantive and procedural issues as raised by the fact pattern
 - C. Address only the procedural issues since they control the outcome of any litigation
 - D. Refuse to analyze either issue without further clarification from the bar examiners

2. A California essay involving the doctrine of advancements requires analysis of:
 - A. Whether the donor has paid all California state gift taxes for the year of the gift at issue
 - B. Whether the donee has retained admitted California probate counsel for any prior matters of record
 - C. Whether the donor has filed all required California state tax returns timely each year of life
 - D. Whether the lifetime transfer was intended as a prepayment of the donee's share of the estate

3. When a California essay involves a question of removal jurisdiction from state to federal court, the examinee should analyze:
 - A. Whether the action could have originally been filed in federal court and whether removal is timely
 - B. Whether the parties have paid all required filing fees in the underlying state court action filed timely
 - C. Whether the parties have retained admitted federal counsel for the removal proceeding at trial in court

D. Whether the parties have been previously involved in any prior similar removal matters of record at trial

4. A California essay involving the doctrine of equitable mortgage 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 appraised by a licensed California appraiser at the time of issue
- C. Whether the conveyance was intended as security for a debt despite taking the form of an absolute deed
- D. Whether the property has been previously subject to similar equitable mortgages in prior conveyances

5. When a California essay involves a question of the doctrine of withdrawal from a conspiracy, the examinee should analyze:

- A. Whether the defendant has prior convictions for any felonies on record in California state currently at trial
- B. Whether the defendant affirmatively notified the conspirators or law enforcement before the crime
- C. Whether the defendant has retained admitted criminal defense counsel for the action at trial currently
- D. Whether the defendant has been previously involved in any prior conspiracy matters of record at trial

6. A California essay involving the doctrine of standing for taxpayers requires analysis of:

- A. Whether the taxpayer has paid all federal court filing fees in the underlying federal court action in full
- B. Whether the taxpayer has retained admitted federal counsel for the standing challenge at trial in court
- C. Whether the taxpayer has filed parallel state actions before bringing the federal taxpayer standing claim
- D. The *Flast v. Cohen* exception permitting taxpayer standing in narrow Establishment Clause challenges only

7. When a California essay involves a question of contract assignment with anti-assignment clauses, the examinee should analyze:

- A. Whether the parties signed the contract in front of a California licensed notary public at signing
- B. Whether the contract was reviewed by an attorney before being signed by both parties timely at issue
- C. Whether the anti-assignment clause prohibits the assignment of rights, duties, or the entire contract
- D. Whether the parties had transacted business together in any prior similar matters before this matter

8. A California essay involving the doctrine of trust merger requires analysis of:

- A. Whether the sole trustee and the sole beneficiary are the same person causing the trust to terminate
- B. Whether the trustee has retained admitted California trust counsel for the trust matter at issue currently
- C. Whether the trustee has filed all required California state tax returns timely each year of the trust at issue
- D. Whether the trustee has been previously involved in any prior similar trust merger matters at trial in court

9. When a California essay involves a question of the doctrine of intervening and superseding causes, the examinee should analyze:

- A. Whether the defendant has paid any prior tort judgments in similar intervening cause matters filed at trial
- B. Whether the intervening cause was foreseeable and whether it breaks the chain of proximate causation
- C. Whether the defendant has retained licensed California tort counsel for the action at trial currently in court
- D. Whether the defendant has been previously involved in any prior similar causation matters at trial in court

10. A California essay involving the doctrine of the spousal communication privilege requires:

- A. Conclusion that all communications between spouses are automatically privileged without further analysis
- B. Application of only the federal privilege rules to the spousal communication privilege analysis at trial
- C. Conclusion that no spousal privilege exists in California state court proceedings filed at trial ever

D. Analysis of whether the communication was confidential and made during a valid marriage

11. When a California essay involves a question of the doctrine of bona fide purchaser, the examinee should analyze:

- A. Whether the purchaser paid value, took without notice, and acted in good faith at the time of acquisition
- B. Whether the purchaser has retained counsel licensed in real estate matters in California currently practicing
- C. Whether the purchaser has paid all property taxes on the disputed property timely each year of ownership
- D. Whether the purchaser has been previously involved in any prior similar BFP matters of record at trial

12. A California essay involving the doctrine of collateral estoppel requires analysis of:

- A. Whether the parties have paid all costs in the prior judicial proceeding involved in full at the start of action
- B. Whether the parties have retained licensed counsel admitted in California for the matter at issue at trial in court
- C. The same issue actually litigated and necessarily decided in a prior action between the same parties or privies
- D. Whether the prior proceeding was tried in a California state court of competent jurisdiction at the time of issue

13. When a California essay involves a question of the duty of candor toward the tribunal, the examinee should analyze:

- A. Whether the lawyer has held a California license for at least five years of active legal practice currently
- B. Whether the lawyer made false statements of material fact or law or failed to disclose adverse authority
- C. Whether the lawyer has been previously disciplined by the State Bar in any prior matter on record at trial
- D. Whether the lawyer has retained licensed California counsel for the professional matter at issue currently

14. A California essay involving the doctrine of incorporation of extrinsic documents into a will requires analysis of:

- A. Whether the testator has filed all required California state tax returns timely each year of life in California
- B. Whether the extrinsic document existed at the time of will execution and is sufficiently identified
- 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

15. When a California essay involves a question of the political question doctrine, the examinee should analyze:

- A. Whether the issue is committed to a coordinate branch and whether judicially manageable standards exist
- B. Whether the plaintiff has paid all federal court filing fees in the underlying federal court action timely in full
- C. Whether the plaintiff has retained admitted federal counsel for the political question case at trial in court timely
- D. Whether the plaintiff has been previously involved in any prior similar political question matters of record at trial

16. A California essay involving the doctrine of the right to a public trial 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 courtroom closure was justified by an overriding interest narrowly tailored to that interest
- D. Whether the defendant has been previously involved in any prior public trial matters of record at trial

17. When a California essay involves a question of shareholders' rights to inspect corporate records, the examinee should analyze:

- A. Whether the shareholder has paid all required filing fees in any underlying corporate action timely at trial
- B. Whether the shareholder has a proper purpose related to their interest as a shareholder
- C. Whether the shareholder has retained licensed California corporate counsel for the inspection request at issue
- D. Whether the shareholder has been previously involved in any prior similar inspection matters of record at trial

18. A California essay involving the doctrine of conditions precedent requires analysis of:

- A. Whether the contractual duty to perform was contingent on the occurrence of a specified event
- 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 timely

19. When a California essay involves a question of products liability based on warning defect, the examinee should analyze:

- A. Whether the manufacturer has paid any prior products liability judgments in similar matters filed at trial in court
- B. Whether the manufacturer has retained licensed California products liability counsel for the action at trial in court
- C. Whether the manufacturer has been previously involved in any prior similar warning defect matters at trial in court
- D. Whether the manufacturer failed to warn of foreseeable risks of harm at the time of distribution

20. A California essay involving the doctrine of restitution requires analysis of:

- A. Whether the plaintiff has paid all filing fees in the underlying action up to the present date in full at trial in court
- B. Whether the plaintiff has retained licensed California restitution counsel for the action at trial currently in court
- C. Whether the defendant was unjustly enriched at the plaintiff's expense and the appropriate measure of recovery
- D. Whether the plaintiff has filed parallel actions in any other state forums concurrently filed at trial in court

21. When a California essay involves a question of the doctrine of estoppel by silence in property law, the examinee should analyze:

- A. Whether the property has been recorded with the county recorder's office timely at the conveyance in full at start
- B. Whether the property has been recently surveyed by a licensed California land surveyor at issue at trial in court
- C. Whether the parties have retained counsel licensed in real estate matters in California currently practicing actively
- D. Whether the party with a duty to speak remained silent and another reasonably relied to their detriment

22. A California essay involving the doctrine of present recollection refreshed requires analysis of:

- A. Whether the witness has prior convictions for any felonies on record in California state at trial currently in court
- B. Whether the witness has been previously qualified as an expert in any prior cases before any court of record at trial
- C. Whether the witness has retained admitted counsel for the proceeding at issue in the matter at trial in court at the time
- D. Whether the witness's memory was actually refreshed and the writing is not itself offered as evidence

23. When a California essay involves a question of facial versus as-applied constitutional challenges, the examinee should analyze:

- A. Whether the plaintiff has paid all federal court filing fees in the underlying federal court action in full at trial in court
- B. Whether the plaintiff has retained admitted federal counsel for the constitutional challenge at trial in court at the time
- C. Whether the challenge attacks the law in all applications (facial) or only as applied to the plaintiff's situation
- D. Whether the plaintiff has filed parallel state actions before bringing the federal constitutional claim of record at trial

24. A California essay involving the doctrine of discovery sanctions requires analysis of:

- A. Whether the sanctioned party failed to comply with discovery obligations and the appropriate sanction under the rules
- B. Whether the sanctioned party has paid all required filing fees in the underlying action timely filed at trial in court
- C. Whether the sanctioned party has retained licensed California counsel for the discovery matter at trial currently in court
- D. Whether the sanctioned party has been previously involved in any prior discovery sanction matters of record at trial

25. When a California essay involves a question of the doctrine of class gifts in wills, the examinee should analyze:

- A. Whether the testator has filed all required California state tax returns timely each year of life in California state
- B. Whether the testator has retained admitted California probate counsel for the will execution at issue at trial in court
- C. Whether the testator has been previously involved in any prior class gift matters of record at trial in court at the time

D. Whether the gift was made to a group described by a common characteristic with the class determined at distribution

26. A California essay involving the doctrine of the right to counsel at lineups requires analysis of:

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

B. Whether the lineup occurred after the initiation of adversary judicial proceedings against the defendant

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

D. Whether the defendant has been previously involved in any prior lineup matters of record at trial in court at the time

27. When a California essay involves a question of the duty of trustees to invest, the examinee should analyze:

A. Whether the trustee complied with the prudent investor rule and the duty to diversify trust investments

B. Whether the trustee has filed all required California state tax returns timely each year of the trust at issue at trial

C. Whether the trustee has retained licensed California trust counsel for any prior matters of record at trial in court

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

28. A California essay involving the doctrine of vicarious liability of a partnership for partner conduct requires analysis of:

A. Whether the partnership has paid all California state taxes for the year of the underlying tort filed at trial in court

B. Whether the partnership has retained licensed California tort counsel for the action at trial currently in court at trial

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

D. Whether the partner acted within the ordinary course of partnership business or with the partnership's authority

29. When a California essay involves a question of the doctrine of nuisance per se, the examinee should analyze:

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

B. Whether the conduct is declared a nuisance by statute or is so harmful that it is unreasonable as a matter of law

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

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

30. A California essay involving the doctrine of impracticability of performance requires analysis of:

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

B. Whether the parties had transacted business together in any prior similar contracts before this matter at issue at trial

C. Whether performance has been made impracticable by an unforeseen event without the party's fault

D. Whether the parties had retained legal counsel during the contractual negotiations originally signed timely at the time

31. When a California essay involves a question of the doctrine of corporate dissolution, the examinee should analyze:

A. Whether the corporation has paid all California franchise taxes for each year of corporate operation in full at trial

- B. Whether the proper procedure for dissolution under California law has been followed and assets properly distributed
- C. Whether the corporation has retained licensed California corporate counsel for the dissolution matter at trial in court
- D. Whether the corporation has been previously involved in any prior similar dissolution matters of record at trial

32. A California essay involving the doctrine of involuntary manslaughter requires analysis of:

- A. Whether the killing occurred during commission of a misdemeanor or with criminal negligence in a lawful act
- B. Whether the defendant has prior convictions for any violent felonies on record in California state currently at trial
- C. Whether the defendant has retained admitted criminal defense counsel for the action at trial currently in court at trial
- D. Whether the defendant has been previously involved in any prior similar manslaughter matters of record at trial in court

33. When a California essay involves a question of the dormant Commerce Clause and state taxation, the examinee should apply:

- A. The strict scrutiny standard for all state tax regulations affecting interstate commerce universally without exception
- B. The rational basis standard for all state taxation of interstate commerce universally without further analysis required
- C. The undue burden standard from abortion jurisprudence applied to all state tax regulations on interstate commerce
- D. The Complete Auto Transit four-prong test for state taxation of interstate commerce

34. A California essay involving the doctrine of pendent jurisdiction requires analysis of:

- A. Whether the parties have paid all federal court filing fees in the underlying federal court action in full at the start
- B. Whether the parties have retained admitted federal counsel for the underlying federal court action at trial in court at trial
- C. Whether the state-law claims share a common nucleus of operative fact with the federal claims at issue
- D. Whether the parties have filed parallel state actions before bringing the federal claims in federal court at trial in court

35. When a California essay involves a question of the doctrine of habit evidence, the examinee should analyze:

- A. Whether the witness has prior convictions for any felonies on record in California state currently at trial in court at trial
- B. Whether the evidence shows a person's regular practice in similar circumstances offered to show conduct
- C. Whether the witness has been previously qualified as an expert in any prior cases before any court of record at trial
- D. Whether the witness has retained admitted counsel for the proceeding at issue in the matter at trial in court at trial

36. A California essay involving the Rule in Dumpor's Case requires analysis of:

- A. Whether the landlord's consent to one assignment waives the right to object to subsequent assignments under California law
- B. Whether the property has been recorded with the county recorder's office timely at the conveyance in full at the start
- C. Whether the property has been recently surveyed by a licensed California land surveyor at issue at trial in court at trial
- D. Whether the property has been previously subject to similar assignment matters in any prior conveyances filed at trial

37. When a California essay involves a question of liability for ultrahazardous activities, the examinee should analyze:

- A. Whether the defendant has paid any prior tort judgments in similar ultrahazardous activity matters filed at trial in court
- B. Whether the defendant has retained licensed California tort counsel for the action at trial currently in court at the time
- C. Whether the defendant has been previously involved in any prior similar ultrahazardous matters of record at trial in court
- D. Whether the activity poses an abnormally dangerous risk not eliminable through reasonable care

38. A California essay involving an attorney's duty to former clients and conflicts requires analysis of:

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

39. When a California essay involves the doctrine of the slayer rule applied to insurance proceeds, the examinee should analyze:

- A. Whether the killer feloniously and intentionally caused the death of the insured and is barred from taking proceeds
- B. Whether the killer has retained admitted California probate counsel for the action at trial currently in court at the time
- C. Whether the killer has been previously involved in any prior probate matters in California state of record at trial in court
- D. Whether the killer has filed all required California state tax returns timely each year of life in California state currently

40. A California essay involving the doctrine of the right against unreasonable seizure of the person requires analysis of:

- A. Whether the defendant has prior convictions for any felonies on record in California state currently at trial in court at trial
- B. Whether the defendant has retained admitted criminal defense counsel for the action at trial currently in court at the trial
- C. Whether the seizure was supported by reasonable suspicion or probable cause depending on its scope and duration
- D. Whether the defendant has been previously involved in any prior seizure matters of record at trial in court at the time

41. When a California essay involves a question of the doctrine of joinder of parties, the examinee should analyze:

- A. Whether the joined parties have paid all required filing fees in the underlying action timely filed at trial in court at trial
- B. Whether the joined parties have retained licensed California counsel for the action at trial currently in court at the time
- C. Whether the joined parties have been previously involved in any prior joinder matters of record at trial in court at the time
- D. Whether the parties' joinder is necessary, proper, or permissive under the applicable rules of joinder

42. A California essay involving the doctrine of duress in contract formation requires analysis of:

- A. Whether the parties signed the contract in front of a California licensed notary public at signing in California at the time
- B. Whether the parties had transacted business together in any prior similar contracts before this matter at issue at trial
- C. Whether one party made an improper threat overcoming the other party's free will, leaving no reasonable alternative
- D. Whether the parties had retained legal counsel during the contractual negotiations originally signed timely on the deal

43. When a California essay involves a question of the doctrine of trust accumulations, the examinee should analyze:

- A. Whether the accumulation of income is within the purposes of the trust and complies with applicable statutes
- B. Whether the trustee has filed all required California state tax returns timely each year of the trust at issue at trial in court
- C. Whether the trustee has retained licensed California trust counsel for the trust matter at issue currently in court at the time
- D. Whether the trustee has been previously involved in any prior similar trust matters of record at trial in court at the time

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

- A. Whether the plaintiff has paid all federal court filing fees in the underlying federal court action in full at the start
- B. Whether the plaintiff has retained admitted federal counsel for the right to travel claim at trial in court at the time
- C. Whether the plaintiff has filed parallel state actions before bringing the federal right to travel claim of record at trial
- D. Whether the law infringes the right to interstate travel and survives strict scrutiny

45. When a California essay involves a question of the doctrine of robbery, the examinee should analyze:

- A. Whether the defendant has prior convictions for any robbery offenses on record in California state currently at trial in court
- B. Whether the property was taken from the person or immediate presence by force or fear with intent to steal
- C. Whether the defendant has retained admitted criminal defense counsel for the action at trial currently in court at trial in court
- D. Whether the defendant has been previously involved in any prior robbery matters of record at trial in court at the time

46. A California essay involving the doctrine of expert testimony based on hearsay requires analysis of:

- A. Whether the expert has been previously qualified in any prior cases before any court of record at trial currently in court
- B. Whether the expert has retained admitted counsel for the proceeding at issue in the matter at trial in court at the time
- C. Whether other experts in the field reasonably rely on the type of hearsay in forming opinions on the subject
- D. Whether the expert has filed all required California state tax returns timely each year of practice currently at the time

47. When a California essay involves a question of equitable conversion at signing of a real estate contract, the examinee should analyze:

- A. Whether the buyer holds equitable title from the time of contract signing and bears the risk of loss
- B. Whether the property has been recorded with the county recorder's office timely at the conveyance in full at the time
- C. Whether the property has been recently surveyed by a licensed California land surveyor at issue at trial in court at the time
- D. Whether the property has been previously subject to similar contracts in any prior conveyances filed at trial at the time

48. A California essay involving the doctrine of defamation per se requires analysis of:

- A. Whether the plaintiff has paid any prior defamation judgments in similar matters filed at trial in court at the time
- B. Whether the plaintiff has retained licensed California defamation counsel for the action at trial currently in court at trial
- C. Whether the plaintiff has been previously involved in any prior defamation matters of record at trial in court at the time
- D. Whether the statement falls into a category presumed damaging without need to plead special damages

49. When a California essay involves a question of equal protection and the rational basis test, the examinee should analyze:

- A. Whether the plaintiff has paid all federal court filing fees in the underlying federal court action in full at the time
- B. Whether the classification is rationally related to a legitimate government purpose under the applicable standard
- C. Whether the plaintiff has retained admitted federal counsel for the equal protection claim at trial in court at the time
- D. Whether the plaintiff has filed parallel state actions before bringing the federal equal protection claim of record at trial

50. A California essay involving the doctrine of interlocutory appeals requires analysis of:

- A. Whether the parties have paid all required filing fees in the underlying action timely filed at trial in court at the time
- B. Whether the parties have retained licensed California counsel for the appeal at trial currently in court at the time
- C. Whether the order is appealable as of right or by permission under the applicable statutes and rules
- D. Whether the parties have been previously involved in any prior interlocutory appeal matters of record at trial in court

PRACTICE EXAM 19: CALIFORNIA ESSAY EXAM SIMULATION – ANSWER KEY

1. B — A California Bar essay must address both substantive and procedural issues as raised by the fact pattern. Cross-over essays routinely combine substantive subjects with procedural questions, and graders score both under separate rubrics. Skipping either category forfeits its point allocation.
2. D — Advancements analysis asks whether the lifetime transfer was intended as a prepayment of the donee's share of the estate. California Probate Code §§6409–6410 require written evidence — a writing by the decedent or acknowledgment by the heir — of the intent to treat the transfer as an advancement against the share otherwise inheritable.
3. A — Removal requires the action to have been originally filable in federal court and timely removal. 28 U.S.C. §1441 permits removal of actions that could have originally been brought in federal court; §1446 requires removal within 30 days of receipt of the initial pleading. Both prongs are essential.

- 4. C** — Equitable mortgage analysis asks whether the conveyance was intended as security for a debt despite the form of an absolute deed. California courts look behind the form to the parties' intent, examining factors such as continued possession by the grantor and disparity between value and consideration.
- 5. B** — Withdrawal from a conspiracy requires affirmative notification to coconspirators or law enforcement before the target crime. The defendant must take affirmative steps to communicate withdrawal, and may need to thwart the conspiracy to avoid liability for substantive crimes committed by coconspirators after withdrawal.
- 6. D** — Federal taxpayer standing is recognized only under the narrow *Flast v. Cohen* exception for Establishment Clause challenges. Taxpayer standing generally fails as too generalized, but *Flast* permits standing when the challenge attacks a congressional spending power exercise alleged to violate the Establishment Clause.
- 7. C** — Anti-assignment clause analysis turns on whether the clause prohibits assignment of rights, duties, or the entire contract. The default rule under California Civil Code §1457 and UCC §2-210 favors assignability; clauses are construed narrowly, with "assignment of the contract" typically reading as prohibiting only delegation of duties.
- 8. A** — Trust merger occurs when the sole trustee and the sole beneficiary are the same person, causing the trust to terminate. California Probate Code §15209 confirms that legal and equitable title cannot remain in the same person; the holder takes legal title outright when merger occurs.
- 9. B** — Intervening and superseding cause analysis turns on the foreseeability of the intervening cause and whether it breaks the chain of proximate causation. A foreseeable intervening cause does not break the chain; a superseding cause is an unforeseeable intervening cause that does. Foreseeability is the controlling test.
- 10. D** — The spousal communication privilege requires a confidential communication made during a valid marriage. California Evidence Code §980 protects confidential communications between spouses; both the confidentiality and the valid-marriage elements must be established. The privilege may be invoked by either spouse.
- 11. A** — Bona fide purchaser status requires payment of value, taking without notice (actual, constructive, or inquiry), and good faith at the time of acquisition. California recording statutes (Civil Code §1213) protect BFPs against prior unrecorded interests when all three elements are satisfied.
- 12. C** — Collateral estoppel requires the same issue actually litigated and necessarily decided in a prior action between the same parties or their privies. The issue must be identical, the decision must be final on the merits, and the party to be precluded must have had a full and fair opportunity to litigate.
- 13. B** — The duty of candor toward the tribunal prohibits false statements of material fact or law and requires disclosure of adverse controlling authority. ABA Model Rule 3.3 and California Rule 3.3 impose these duties, which override the duty of confidentiality in cases of perjury or fraud on the court.

14. B — Incorporation by reference requires the extrinsic document to have existed at the time of will execution and be sufficiently identified. California Probate Code §6130 imposes these requirements plus the testator's intent to incorporate the document into the will. Subsequently created documents cannot be incorporated.

15. A — The political question doctrine asks whether the issue is committed to a coordinate branch and whether judicially manageable standards exist. *Baker v. Carr* identified six factors, with textual commitment to a coordinate branch and lack of judicially manageable standards as the primary considerations.

16. C — The right to a public trial permits courtroom closure only when justified by an overriding interest narrowly tailored to that interest. *Waller v. Georgia* requires the closure to be necessary, with the trial court considering alternatives and making specific findings on the record.

17. B — Shareholder inspection rights require a proper purpose related to the shareholder's interest as a shareholder. California Corporations Code §§1601–1602 grant inspection rights but limit them to purposes related to the shareholder's interest, not harassment or competitive use.

18. A — Conditions precedent make the contractual duty to perform contingent on the occurrence of a specified event. The analysis identifies the condition, determines whether it occurred or was waived or excused, and applies the consequences — excused performance if unmet, performance due if met.

19. D — A warning defect claim requires the manufacturer to have failed to warn of foreseeable risks of harm at the time of distribution. California recognizes warning defects as one of the three categories of product defects (alongside manufacturing and design defects), analyzed under both negligence and strict liability theories.

20. C — Restitution requires unjust enrichment of the defendant at the plaintiff's expense plus the appropriate measure of recovery. The measure is the benefit conferred on the defendant (disgorgement), not the plaintiff's loss; this distinguishes restitution from compensatory damages.

21. D — Estoppel by silence requires the party with a duty to speak to have remained silent while another reasonably relied to their detriment. The doctrine applies when the silent party had knowledge of the truth and a duty to disclose, and another's reliance on the silence produced detrimental change of position.

22. D — Present recollection refreshed requires the witness's memory to have been actually refreshed, with the writing not itself offered as evidence. FRE 612 and California Evidence Code §771 permit any writing to refresh recollection; only the refreshed testimony, not the underlying writing, becomes evidence.

23. C — Facial challenges attack the law in all applications; as-applied challenges attack only the law as applied to the plaintiff's situation. The distinction controls the scope of available remedy and the burden of proof, with facial challenges generally more difficult to maintain successfully.

24. A — Discovery sanctions analysis asks whether the sanctioned party failed to comply with discovery obligations and what sanction is appropriate under the applicable rules. California CCP §2023.030 and

FRCP 37 provide a graduated range of sanctions from monetary to terminating, depending on the violation's severity and pattern.

25. D — Class gifts are gifts to a group described by a common characteristic, with class membership determined at the time of distribution. California Probate Code §21114 and related provisions govern class composition, with the class generally closing at distribution unless the will provides otherwise.

26. B — The Sixth Amendment right to counsel at lineups attaches after the initiation of adversary judicial proceedings. *United States v. Wade* established the right; *Kirby v. Illinois* limited it to post-charging lineups. The timing element controls whether counsel was constitutionally required.

27. A — The trustee's duty to invest follows the prudent investor rule and the duty to diversify trust investments. California Probate Code §§16045–16054 codify the Uniform Prudent Investor Act, requiring the trustee to consider risk, return, and portfolio diversification across the trust assets as a whole.

28. D — Partnership vicarious liability for partner conduct requires the partner to have acted within the ordinary course of partnership business or with the partnership's authority. California Corporations Code §16305 makes the partnership liable for the partner's actionable conduct within these scopes.

29. B — Nuisance per se requires conduct declared a nuisance by statute or conduct so harmful that it is unreasonable as a matter of law. California Civil Code §3479 defines nuisance broadly, and certain activities are deemed per se nuisances without case-by-case reasonableness analysis.

30. C — Impracticability of performance requires performance to have been made impracticable by an unforeseen event without the party's fault. UCC §2-615 and Restatement (Second) of Contracts §261 codify the doctrine, which is broader than impossibility but requires more than mere increased expense.

31. B — Corporate dissolution analysis requires examination of the proper procedure under California law and proper distribution of assets. California Corporations Code §§1900–2011 govern voluntary and involuntary dissolution, requiring proper approval, notice to creditors, winding up, and distribution of assets to shareholders.

32. A — Involuntary manslaughter requires a killing during commission of a misdemeanor or with criminal negligence in a lawful act. California Penal Code §192(b) defines the offense, with the misdemeanor-manslaughter and criminally negligent killing branches as the primary forms of liability.

33. D — State taxation of interstate commerce applies the Complete Auto Transit four-prong test. The tax must (1) apply to an activity with substantial nexus to the state, (2) be fairly apportioned, (3) not discriminate against interstate commerce, and (4) be fairly related to services provided by the state.

34. C — Pendent jurisdiction (now supplemental jurisdiction) requires state-law claims to share a common nucleus of operative fact with the federal claims. *United Mine Workers v. Gibbs* established this standard, now codified at 28 U.S.C. §1367. The shared-nucleus test extends federal jurisdiction.

35. B — Habit evidence shows a person's regular practice in similar circumstances offered to prove conduct consistent with that practice. FRE 406 and California Evidence Code §1105 permit habit evidence

as distinct from character evidence because regular practice is more probative of specific conduct on a particular occasion.

36. A — The Rule in *Dumpro's Case* provides that a landlord's consent to one assignment waives the right to object to subsequent assignments. California has abolished the rule by statute (Civil Code §1995.310), but the doctrinal analysis still examines whether the rule would apply and the statute's effect.

37. D — Strict liability for ultrahazardous activities requires the activity to pose an abnormally dangerous risk not eliminable through reasonable care. Restatement (Second) of Torts §520 lists factors including high risk, inability to eliminate risk, uncommonness, inappropriateness to location, and value to community.

38. B — Duty to former clients requires analysis of whether the current matter is substantially related to a prior representation and whether informed written consent applies. California Rule 1.9 prohibits adverse representation in substantially related matters absent informed written consent from the former client.

39. A — The slayer rule disqualifies a killer who feloniously and intentionally caused the insured's death from taking insurance proceeds. California Probate Code §252 extends the rule to insurance proceeds, treating the killer as having predeceased the insured for purposes of beneficiary designations and survivorship.

40. C — Seizure of the person requires reasonable suspicion or probable cause depending on the seizure's scope and duration. *Terry v. Ohio* permits brief investigative stops on reasonable suspicion; a full custodial arrest requires probable cause. The seizure's nature controls the standard applied.

41. D — Joinder analysis applies the rules on necessary, proper, and permissive joinder. FRCP 19 governs required parties (necessary and indispensable); FRCP 20 governs permissive joinder; California CCP §§378–389 contain analogous provisions. The classification controls the joinder consequences and procedural treatment.

42. C — Duress in contract formation requires an improper threat that overcomes the other party's free will, leaving no reasonable alternative. Restatement (Second) of Contracts §175 codifies the doctrine, with both the improper threat and the absence of reasonable alternative elements required for the defense.

43. A — Trust accumulations require the accumulation of income to be within the purposes of the trust and to comply with applicable statutes. California Probate Code §16007 imposes the duty to administer the trust according to its terms, and accumulations must serve the trust's identified purposes.

44. D — The right to interstate travel is a fundamental right triggering strict scrutiny when infringed. *Saenz v. Roe* and *Shapiro v. Thompson* recognize the right to travel under the Privileges and Immunities Clause and Equal Protection Clause, with state laws burdening travel requiring a compelling state interest narrowly tailored.

45. B — Robbery requires taking property from the person or immediate presence by force or fear with intent to steal. California Penal Code §211 defines the offense; all elements (taking, from person or presence, by force or fear, intent to permanently deprive) must be established.

46. C — Expert testimony based on hearsay is permitted when other experts in the field reasonably rely on the type of hearsay in forming opinions on the subject. FRE 703 and California Evidence Code §801 permit this category of reliance even though the underlying hearsay is generally inadmissible for its truth.

47. A — Equitable conversion at signing of a real estate contract gives the buyer equitable title and shifts the risk of loss to the buyer. The doctrine treats the buyer as the equitable owner from the moment of a binding contract for sale, with the seller retaining bare legal title pending closing.

48. D — Defamation per se involves statements falling into categories presumed damaging without the plaintiff needing to plead special damages. California recognizes four traditional categories: imputing criminal conduct, loathsome disease, business or professional incompetence, or unchastity in a woman.

49. B — Rational basis review asks whether the classification is rationally related to a legitimate government purpose. The test is highly deferential, with the law upheld if any conceivable legitimate purpose is rationally served by the classification. Rational basis is the default standard for most equal protection challenges.

50. C — Interlocutory appeals analysis asks whether the order is appealable as of right or by permission under the applicable statutes and rules. California CCP §904.1 lists appealable interlocutory orders; federal 28 U.S.C. §1292 provides limited interlocutory appeal rights. Most orders are reviewable only on appeal from final judgment.