

# **PRACTICE EXAM 9: CALIFORNIA ESSAY EXAM SIMULATION (50 QUESTIONS)**

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1. Which of the following is a common task tested by the California Bar essay portion?
  - A. Identifying issues raised by a fact pattern and analyzing them with applicable law
  - B. Memorizing landmark appellate decisions and reciting them verbatim by full citation
  - C. Drafting an objective memorandum using only the provided closed-universe library materials
  - D. Selecting the best answer from a list of multiple-choice options at the testing center
  
2. In the IRAC framework, the "I" stands for:
  - A. Inference drawn from the facts presented within the question stem
  - B. Investigation of the underlying record before any analysis begins
  - C. Introduction explaining the parties involved in the fact pattern
  - D. Issue identification based on the legal questions raised by the facts
  
3. When a California essay involves a specific gift in a will that lapses, the examinee should consider:
  - A. Whether the testator's spouse takes the lapsed gift by intestate share
  - B. Whether the executor has discretion to redirect the lapsed gift to others
  - C. Whether California's anti-lapse statute applies to save the gift
  - D. Whether the lapsed gift escheats to the state government immediately

4. When a California essay raises an issue of premarital agreement enforceability, the examinee should apply:

- A. The general community property rules without any specific prenup analysis
- B. The California Premarital Agreement Act and its enforceability requirements
- C. The federal Uniform Premarital Agreement Act as binding national authority
- D. The Restatement of Family Law principles on premarital contractual matters

5. What is the most effective approach to organizing a Contracts essay involving multiple potential breaches?

- A. Identify each potential breach and analyze it under a separate heading
- B. Combine all potential breaches into one continuous analytical paragraph
- C. Discuss only the most material breach without addressing the others raised
- D. Discuss the potential breaches in reverse chronological order from latest first

6. A California essay on Evidence involving an out-of-court statement by a party opponent requires:

- A. Conclusion that the statement is barred by the hearsay rule automatically
- B. Application of the federal rules without any California-specific distinctions
- C. Analysis of whether the statement qualifies as a party admission
- D. Application of only the work product doctrine to the admissibility question

7. When a California essay involves a corporate director who personally benefits from a transaction with the corporation, the analysis should focus on:

- A. Whether the corporation is publicly traded on a major national exchange
- B. Whether the director resides within the state of California currently
- C. Whether the director is a member of the audit or compensation committee

D. Whether the self-dealing transaction was approved through proper procedures

8. In a California Wills essay involving the revival of a previously revoked will, the examinee should apply:

- A. The federal common law on will revival principles generally accepted
- B. The California Probate Code provisions on revival of revoked wills
- C. The Uniform Probate Code revival rules as adopted nationally elsewhere
- D. The Restatement of Property donative transfers principles on revival

9. When a California Real Property essay involves a deed restriction, the examinee should determine:

- A. Whether the restriction was recorded with the county assessor's office timely
- B. Whether the restriction was approved by the local zoning board originally
- C. Whether the restriction is enforceable as a covenant or servitude
- D. Whether the restriction has been challenged in prior litigation between parties

10. A California essay on Constitutional Law involving the separation of powers tests:

- A. Whether the challenged action exceeds the branch's constitutional authority
- B. Whether the action was popular with voters at the most recent election
- C. Whether the action received bipartisan legislative support before adoption
- D. Whether the action was reported in the press before its implementation date

11. The Performance Test's instructional memorandum tells the examinee:

- A. Which precise answer the bar examiners expect to receive on the task
- B. The specific lawyering task to perform and the work product required
- C. Which cases in the library are dispositive of the central legal question

D. The grading rubric and point allocation for each potential issue raised

12. When a California essay involves a tort committed by a corporate employee, the examinee should analyze:

- A. The employee's personal financial wealth and total net worth disclosed
- B. Whether the corporation has paid all of its California franchise taxes
- C. The corporation's compliance with annual reporting requirements timely
- D. Whether the employee acted within the scope of employment

13. A California Criminal Law essay involving a self-defense claim requires analysis of:

- A. Whether the defendant carried a concealed firearm at the scene at issue
- B. The reasonableness and proportionality of the force used in defense
- C. Whether the defendant has prior convictions for violent criminal offenses
- D. The defendant's training in martial arts or other combat disciplines learned

14. When a California essay involves a question of standing in a Constitutional Law case, the examinee should analyze:

- A. Whether the plaintiff has injury in fact, causation, and redressability
- B. Whether the plaintiff has paid the federal filing fee for the legal action
- C. Whether the plaintiff has retained licensed California counsel for the case
- D. Whether the plaintiff has previously filed similar actions in state court

15. A California essay involving the elements of conversion in Torts requires analysis of:

- A. Whether the plaintiff filed suit within the limitations period for theft claims
- B. Whether the defendant intended to permanently deprive the plaintiff of property

- C. The defendant's substantial interference with the plaintiff's possessory rights
- D. Whether the plaintiff has identified the property through specific serial numbers

16. When a California Civil Procedure essay involves a summary judgment motion, the examinee should analyze:

- A. Whether the moving party has paid all required filing fees and costs in full
- B. Whether the case has been pending for at least one year before the motion
- C. Whether the moving party has retained competent licensed counsel for trial
- D. Whether no triable issue of material fact exists and judgment is warranted

17. A California essay involving a constructive trust in Remedies requires analysis of:

- A. Whether the defendant holds property under circumstances of unjust enrichment
- B. Whether the plaintiff filed the action in the proper California venue location
- C. Whether the plaintiff has obtained a money judgment against the defendant first
- D. Whether the property in question is currently held in a bank account somewhere

18. When a California essay involves a misrepresentation claim in Contracts, the examinee should analyze:

- A. Whether the parties communicated by written or electronic means of contact
- B. Whether the misrepresentation was material and induced reasonable reliance
- C. Whether the contract was signed in front of a duly licensed notary public
- D. Whether the misrepresenting party held an active professional license

19. A California essay on Professional Responsibility involving fee agreements requires:

- A. Conclusion that all fee agreements are enforceable as long as facially fair

- B. Application of only the federal contingency fee guidelines as national authority
- C. Application of the standard contract formation rules to all fee agreements
- D. Compliance with California-specific writing and disclosure requirements

20. When a California essay involves a battery claim in Torts, the examinee should analyze:

- A. Whether the plaintiff was wearing protective equipment at the time of contact
- B. Whether the defendant was acting under official government authority then
- C. Whether the defendant intentionally caused harmful or offensive contact
- D. Whether the contact occurred during a publicly held sporting event of note

21. A California essay involving the doctrine of equitable estoppel requires analysis of:

- A. Whether one party reasonably relied on representations to their detriment
- B. Whether the contract was executed by both parties in proper signed form
- C. Whether the parties had equal bargaining power at the time of contract formation
- D. Whether the action was filed before the statute of limitations expired generally

22. When a California essay involves a question of contract formation through offer and acceptance, the examinee should analyze:

- A. Whether the parties communicated through licensed legal counsel during negotiation
- B. Whether the contract was reduced to writing before any actual performance began
- C. The objective manifestation of mutual assent by both parties to be bound
- D. Whether the contract complied with notarization requirements in the state

23. A California essay on Criminal Procedure involving an automobile search requires analysis of:

- A. Whether the vehicle had been previously stopped for similar violations recently

- B. Whether the driver holds a valid California driver's license at the time of stop
- C. Whether the vehicle was registered to the driver at the time of the traffic stop
- D. Whether the automobile exception or another warrantless search exception applies

24. When a California essay involves a question of negligent infliction of emotional distress, the examinee should determine:

- A. Whether the plaintiff sought psychiatric treatment within thirty days of the events
- B. Whether the bystander or direct victim rule applies to the plaintiff's claim
- C. Whether the plaintiff was insured against the type of distress alleged in suit
- D. Whether the defendant's conduct occurred in a public location open to all

25. A California essay involving the unconscionability defense in Contracts requires analysis of:

- A. Both procedural and substantive unconscionability at the time of contract formation
- B. Only the financial outcome of the contract for each party involved in the deal
- C. Only whether the contract was drafted by a licensed attorney as a professional service
- D. Whether the contract violated any federal consumer protection statute on its face

26. When a California essay involves a partnership's authority to bind the partnership, the examinee should analyze:

- A. Whether the partnership has filed all required state tax returns timely each year
- B. Whether the partner is the most senior or longest-tenured member of the partnership
- C. Whether the partner had actual or apparent authority for the act
- D. Whether the partnership has held an annual meeting of partners recently this year

27. A California essay on Wills involving the doctrine of dependent relative revocation requires:

- A. Conclusion that all revocations are final once the original will is destroyed
- B. Application of only the common law revocation principles as generally accepted
- C. Conclusion that revocations are never effective without two witnesses present
- D. Analysis of whether a revocation was conditioned on a mistaken belief

28. When a California essay involves a question of express versus implied easement, the examinee should determine:

- A. The method of creation including writing, necessity, prior use, or prescription
- B. Whether the easement was registered with the state of California at creation
- C. Whether the easement holder has paid property taxes on the easement annually
- D. Whether the servient estate owner has expressly consented in writing recently

29. A California essay on Evidence involving impeachment with a prior conviction requires analysis of:

- A. Whether the conviction was rendered in a federal or state court of record
- B. Whether the witness has publicly admitted the conviction prior to the trial
- C. Whether the conviction qualifies under FRE 609 or California Evidence Code §788
- D. Whether the witness has been pardoned by the governor's office in writing

30. When a California essay involves a question of conspiracy in Criminal Law, the examinee should analyze:

- A. Whether the conspirators were related by family or marriage ties at the time
- B. Whether there was an agreement and an overt act in furtherance
- C. Whether the conspirators committed the underlying crime successfully as planned
- D. Whether the conspirators recorded their agreement in writing somewhere available

31. A California essay on Constitutional Law involving the Establishment Clause requires:

- A. Conclusion that any religious reference by government is per se unconstitutional
- B. Application of the Lemon test or current Establishment Clause framework
- C. Application of only the California Constitution to the religious establishment question
- D. Conclusion that all government religious involvement is permitted broadly without limit

32. When a California Wills essay involves the integration of documents into a will, the examinee should determine:

- A. Whether the document was present and intended to be part of the will
- B. Whether the document was filed with the probate court at the time of execution
- C. Whether the document was signed by the same witnesses as the will document
- D. Whether the document was prepared by the same attorney as the will instrument

33. A California essay on Civil Procedure involving an attack on a judgment requires analysis of:

- A. Whether the attacking party paid all filing fees in the original underlying action
- B. Whether the attacking party retained licensed California counsel for the proceedings
- C. Whether the attack is direct or collateral and the available grounds
- D. Whether the attacking party filed the motion within thirty days of the judgment

34. When a California essay involves a partnership dissolution, the examinee should analyze:

- A. Whether the partnership has paid all California state taxes owed for the year
- B. Whether the partners have agreed in writing to specific dissolution terms timely
- C. Whether the partnership has filed dissolution papers with the secretary of state
- D. The events triggering dissolution and the winding up procedure under RUPA

35. A California essay on Real Property involving a co-ownership dispute requires:

- A. Conclusion that all co-tenants share equally without performing further analysis
- B. Analysis of the type of co-tenancy and the rights of each co-tenant
- C. Application of only federal property law on co-ownership disputes generally
- D. Conclusion that one co-tenant always controls the property entirely by default

36. When a California essay involves a fraudulent conveyance issue, the examinee should analyze:

- A. Whether the transferee was related to the transferor by family or marital ties
- B. Whether the transfer was recorded with the county recorder's office promptly
- C. The transferor's intent and the adequacy of consideration received
- D. Whether the transfer involved real property or personal property only generally

37. A California essay involving the Statute of Frauds requires analysis of:

- A. Whether the contract falls within a Statute of Frauds category and was sufficiently written
- B. Whether the contract was prepared by an attorney admitted in California state court
- C. Whether the contract was reviewed by a licensed real estate broker before signing
- D. Whether the contract was registered with the secretary of state's office in writing

38. When a California essay involves a question of jury instructions in Civil Procedure, the examinee should analyze:

- A. Whether the trial judge holds a permanent appointment to the superior court bench
- B. Whether the instructions accurately state the applicable law
- C. Whether the attorneys filed their proposed instructions thirty days in advance
- D. Whether the jury was sequestered throughout the entire trial proceedings

39. A California essay on Remedies involving specific performance of a real estate contract requires analysis of:

- A. Whether the buyer has secured financing through a California bank or lender
- B. Whether the buyer has paid the earnest money deposit in full at signing
- C. Whether the contract is sufficiently definite and damages are inadequate
- D. Whether the buyer has inspected the property before requesting performance

40. When a California essay involves an inheritance by an adopted child, the examinee should determine:

- A. Whether the adopted child has been raised in California exclusively since adoption
- B. Whether the adopted child is biologically related to the decedent in any way
- C. Whether the adoption occurred before the decedent's death by any reasonable time
- D. Whether the adoption created a legal parent-child relationship under California law

41. A California essay on Professional Responsibility involving the duty of competence requires:

- A. Analysis of whether the lawyer possessed the legal knowledge, skill, and thoroughness required
- B. Conclusion that all California licensed attorneys are per se competent in any case
- C. Application of only the federal rules on attorney competence standards nationally
- D. Conclusion that competence is determined solely by the lawyer's years of practice

42. When a California essay involves an issue of double jeopardy, the examinee should analyze:

- A. Whether the prosecution filed charges within the statute of limitations period
- B. Whether the defendant entered a plea bargain at the prior criminal proceeding
- C. Whether the defendant testified personally in the prior criminal proceeding
- D. Whether jeopardy attached and whether the same offense is being prosecuted

43. A California essay on Business Associations involving a shareholder derivative suit requires analysis of:

- A. Whether the shareholder has held the corporate stock for more than ten years
- B. Whether the shareholder has paid all corporate dividends as taxable income
- C. Whether the demand requirement has been satisfied or excused
- D. Whether the shareholder has attended every annual meeting personally in person

44. When a California essay involves a question of acceptance under the mailbox rule, the examinee should analyze:

- A. Whether the acceptance was properly dispatched through an authorized means
- B. Whether the offer was made in writing or only orally to the offeree initially
- C. Whether the offeror has retained legal counsel for the contractual negotiation
- D. Whether the parties have previously transacted business together over years

45. A California essay on Evidence involving the best evidence rule requires:

- A. Conclusion that only the original document is ever admissible at trial proceedings
- B. Application of only the federal rules without any California Evidence Code distinctions
- C. Conclusion that any duplicate document is admissible regardless of authentication needs
- D. Analysis of whether the original is required and whether exceptions apply

46. When a California essay involves a defective products design defect claim, the examinee should apply:

- A. Only the manufacturer's stated safety standards from the product owner's manual
- B. Both the consumer expectation test and the risk-utility test
- C. Only the federal consumer protection standards as primary controlling authority
- D. Only the warranty law standards without any other defect analysis applied

47. A California essay involving the equal dignities rule in Agency requires analysis of:

- A. Whether the agent's authority must be in writing because the contract must be in writing
- B. Whether the principal has paid the agent's commission in full at the time of signing
- C. Whether the agent has obtained a real estate license from the state of California
- D. Whether the principal has notified all third parties of the agency relationship in writing

48. When a California essay involves an issue of subject matter jurisdiction in state court, the examinee should analyze:

- A. Whether the parties have agreed to litigate in California state court by contract clause
- B. Whether the action was filed within the applicable statute of limitations period
- C. Whether the California superior court has jurisdiction over the claim type
- D. Whether the parties have completed their initial mandatory discovery disclosures

49. A California essay involving the rule against perpetuities requires analysis of:

- A. Whether the interest holder has timely paid all of the applicable property taxes
- B. Whether the conveyance was recorded with the county recorder's office at execution
- C. Whether the grantor predeceased the grantee by any measurable period of time
- D. Whether the future interest must vest within twenty-one years after a life in being

50. When a California essay involves a question of waiver in Professional Responsibility, the examinee should analyze:

- A. Whether the lawyer has been disciplined by the State Bar in any prior actions
- B. Whether the client's waiver was informed, voluntary, and in writing where required
- C. Whether the lawyer has more than ten years of active practice experience overall
- D. Whether the lawyer is currently a partner in an established law firm in California

## **PRACTICE EXAM 9: CALIFORNIA ESSAY EXAM SIMULATION – ANSWER KEY**

- 1. A** — Identifying issues and analyzing them with applicable law is the core task on the California Bar essay portion. Graders score the examinee's ability to spot legal issues in a fact pattern, state the controlling rule, apply it to the facts, and reach a conclusion under IRAC. This issue-identification-and-application skill is the foundation of every bar essay.
- 2. D** — The "I" in IRAC stands for issue identification based on the legal questions raised by the facts. Issue identification is the threshold analytical step because unraised issues earn zero points regardless of how well the remaining sections are written. Without spotting the issue, the rule, analysis, and conclusion cannot follow.
- 3. C** — California's anti-lapse statute (Probate Code §21110) saves gifts to certain predeceased beneficiaries by passing the gift to the beneficiary's issue. The statute applies to gifts to kindred and prevents the lapsed gift from passing into the residue or intestacy when the statutory requirements are met. Identifying applicability is the critical analytical move.
- 4. B** — The California Premarital Agreement Act (Family Code §§1610–1617) controls the enforceability of premarital agreements in California. The CPAA imposes specific requirements including voluntariness, full disclosure, and (for spousal support provisions) a seven-day review period with independent counsel. Applying general contract rules misses the CPAA-specific framework.
- 5. A** — Multi-breach contract analysis is best organized with separate headings for each potential breach. Each breach has its own elements, defenses, and damages framework, and graders score breach by breach against the rubric. Combining breaches into one analysis obscures the structure and forfeits structural points.
- 6. C** — A statement by a party opponent is admissible as a party admission under FRE 801(d)(2) and California Evidence Code §1220. Federal rules classify the statement as non-hearsay; California treats it as a hearsay exception. Either way, the analysis turns on whether the declarant is a party (or agent within scope), not on a general hearsay objection.
- 7. D** — Director self-dealing analysis focuses on whether the transaction was approved through proper procedures. California Corporations Code §310 protects the transaction when there is full disclosure to the board, approval by disinterested directors or shareholders, or proof that the transaction was just and reasonable to the corporation. Procedural compliance is the heart of the analysis.
- 8. B** — California Probate Code §6123 governs revival of a previously revoked will. Revival depends on the testator's intent at the time of the second revocation and the method of the original revocation. Applying common-law or Uniform Probate Code revival rules misses the California statutory framework being tested.
- 9. C** — Deed restrictions are enforced as either real covenants or equitable servitudes. Real covenants require horizontal and vertical privity, touch and concern, intent to bind successors, and notice; equitable

servitudes drop the privity requirements but retain touch and concern, intent, and notice. The doctrinal classification controls enforceability.

**10. A** — Separation of powers analysis asks whether the challenged action exceeds the branch's constitutional authority. The doctrine prevents one branch from aggrandizing power belonging to another, evaluated under cases like *INS v. Chadha* (legislative veto) and *Youngstown Sheet & Tube* (executive power categories). Popular support or press coverage is irrelevant to the constitutional question.

**11. B** — The Performance Test's instructional memorandum specifies the lawyering task to perform and the work product required. The memo, typically from a supervising attorney or judge, identifies the audience, the document type (memo, brief, letter, statement), and any organizational or analytical instructions. Following the memo precisely is essential for full credit.

**12. D** — Corporate employer liability for an employee's tort requires analysis of whether the employee acted within the scope of employment. Respondeat superior makes the employer liable only for torts committed within the scope (incidental to job duties, foreseeable, dual-purpose), not for frolics. The scope analysis is the core inquiry.

**13. B** — Self-defense in California requires that the force used be reasonable and proportional to the threat. California Penal Code §197 and case law require an honest and reasonable belief in imminent harm, with force proportionate to the threat faced. Excessive or preemptive force defeats the defense.

**14. A** — Constitutional standing requires injury in fact, causation, and redressability. Article III standing under *Lujan v. Defenders of Wildlife* requires concrete and particularized injury, fairly traceable to the defendant's conduct, and likely redressable by judicial action. These three elements are the threshold analytical framework.

**15. C** — Conversion requires the defendant's substantial interference with the plaintiff's possessory rights. The interference must be so substantial that justice requires payment of the property's full value; minor interference supports trespass to chattels, not conversion. The degree of interference is the doctrinal hinge.

**16. D** — Summary judgment requires no triable issue of material fact and entitlement to judgment as a matter of law. California CCP §437c and FRCP 56 require the moving party to establish both elements through admissible evidence. The two-prong showing is the standard the moving party must meet.

**17. A** — A constructive trust is imposed when the defendant holds property under circumstances of unjust enrichment. The remedy requires the wrongful holder to convey the property to the rightful owner, often where legal title was obtained through fraud, mistake, breach of fiduciary duty, or other unconscionable means. Unjust enrichment is the equitable trigger.

**18. B** — A misrepresentation claim requires the misrepresentation to be material and to have induced reasonable reliance. Materiality means a reasonable person would attach importance to it; inducement means the plaintiff actually relied. Without both, the misrepresentation does not support recovery in contract or tort.

**19. D** — California fee agreements must comply with California-specific writing and disclosure requirements. Business and Professions Code §6147 governs contingency fee agreements; §6148 governs non-contingency fee agreements above \$1,000. Both impose specific writing, signature, and disclosure obligations distinct from general contract law.

**20. C** — Battery requires the defendant to have intentionally caused harmful or offensive contact. Intent is to cause the contact (not necessarily harm), and the contact must be either harmful (physically injurious) or offensive (a reasonable person would find it offensive). Both intent and qualifying contact must be established.

**21. A** — Equitable estoppel requires reasonable reliance by one party on representations to their detriment. The doctrine prevents a party from asserting a position inconsistent with a prior representation when another party has reasonably relied on that representation to their detriment. Reliance and detriment are the operative elements.

**22. C** — Contract formation under the objective theory requires mutual assent shown through outward conduct and language. What matters is what a reasonable person would understand from the parties' words and conduct, not subjective intent. The objective manifestation test governs offer, acceptance, and the meeting of the minds.

**23. D** — A warrantless vehicle search is analyzed under the automobile exception or another recognized warrant exception. The automobile exception requires probable cause and vehicle mobility (Carroll); other exceptions include search incident to arrest, inventory, consent, and plain view. The analysis must identify and apply the relevant exception.

**24. B** — NIED analysis applies either the bystander rule or the direct victim rule. Under *Dillon v. Legg*, bystander recovery requires a close relationship, presence at the scene, and contemporaneous sensory awareness; under *Burgess v. Superior Court*, direct victim recovery requires a preexisting relationship creating a duty. The classification controls the elements.

**25. A** — California unconscionability requires both procedural and substantive elements on a sliding scale. Procedural unconscionability involves oppression or surprise in formation; substantive unconscionability involves overly harsh or one-sided terms. Greater amounts of one reduce the amount of the other required for the defense to succeed.

**26. C** — A partner binds the partnership through actual or apparent authority. California Corporations Code §16301 makes any partner an agent for acts apparently carrying on the partnership business in the ordinary course, while actual authority arises from express or implied grant. Both branches must be analyzed.

**27. D** — Dependent relative revocation applies when a revocation was conditioned on a mistaken belief. The doctrine invalidates the revocation if it was based on a mistaken belief (typically that a new will is valid) and the testator would not have revoked the original but for the mistake. Preserving the original will requires this conditional-mistake analysis.

- 28. A** — Easement classification depends on the method of creation. Easements arise by express writing (grant or reservation), implication from prior use, necessity (landlocked parcels), or prescription (open, hostile, continuous use for the statutory period). Each method has distinct elements that must be analyzed.
- 29. C** — Prior conviction impeachment is analyzed under FRE 609 or California Evidence Code §788. Federal admissibility turns on the conviction's felony status, presence of dishonesty, and Rule 403 balancing; California admits felonies involving moral turpitude, subject to Evidence Code §352 balancing. The framework differs in important particulars between systems.
- 30. B** — Conspiracy in California requires an agreement plus an overt act in furtherance. California Penal Code §184 requires both an agreement between two or more persons to commit a crime and at least one overt act by any conspirator. The completed crime is not necessary, but both elements are.
- 31. B** — Establishment Clause analysis applies the Lemon test or the current framework. After *Kennedy v. Bremerton* (2022), historical practices and original meaning supplement or supplant Lemon's three-prong test (secular purpose, primary effect, no excessive entanglement) in some contexts. The analysis must engage the controlling framework.
- 32. A** — Document integration into a will requires presence and intent at execution. Under California Probate Code §6131 and common law principles, a document not physically part of the will is integrated if it was present at execution and the testator intended it to be part of the will. Both presence and intent are required.
- 33. C** — Attack on a judgment requires identifying it as direct or collateral and analyzing the available grounds. Direct attacks (appeal, motion to vacate, new trial) raise errors within the original action; collateral attacks (independent actions in equity) generally require jurisdictional defects or extrinsic fraud. The classification determines available remedies.
- 34. D** — Partnership dissolution analysis applies the events triggering dissolution and the winding up procedure under RUPA. California Corporations Code §16801 et seq. specifies dissociation and dissolution events, winding up obligations, and final distribution priorities. The statutory framework governs each step from dissolution to termination.
- 35. B** — Co-ownership analysis turns on the type of co-tenancy and the rights of each co-tenant. Tenancy in common (separate, alienable, devisable shares), joint tenancy (right of survivorship with four unities), and tenancy by the entirety (limited to spouses, abolished in California) carry distinct rights, duties, and termination rules. Classification is the analytical starting point.
- 36. C** — Fraudulent conveyance analysis examines the transferor's intent and the adequacy of consideration. The Uniform Voidable Transactions Act (California Civil Code §3439 et seq.) targets actual intent to hinder, delay, or defraud creditors, and constructive fraud where consideration was inadequate and the transferor was insolvent. Both prongs may apply.
- 37. A** — Statute of Frauds analysis requires identifying the applicable category and assessing whether the writing is sufficient. The MY LEGS categories (marriage, year, land, executor, goods over \$500, suretyship) trigger the writing requirement, and the writing must identify the parties, subject matter, and

essential terms and be signed by the party to be charged. Exceptions like part performance must also be considered.

**38. B** — Jury instruction analysis turns on whether the instructions accurately state the applicable law. Misstated or omitted instructions constitute reversible error if prejudicial, and proper instructions must convey the elements, defenses, and burdens accurately. Procedural timing and judicial appointment are irrelevant to substantive accuracy.

**39. C** — Specific performance of a real estate contract requires the contract to be sufficiently definite and the legal remedy to be inadequate. Real estate is presumed unique, satisfying the inadequacy element under the inadequate-remedy-at-law requirement, but the contract must still contain sufficiently definite terms (parties, property, price, time) to be specifically enforced.

**40. D** — Adoption creates a legal parent-child relationship under California law. California Probate Code §6450 treats adopted children as the natural children of the adopting parents for intestate succession purposes, with the relationship to biological parents generally severed (with limited exceptions for stepparent adoptions). The legal-relationship analysis controls inheritance rights.

**41. A** — The duty of competence requires the lawyer to possess the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. Both ABA Model Rule 1.1 and California Rule of Professional Conduct 1.1 use this formulation. Years of practice or California licensure alone are insufficient indicators of competence in a specific matter.

**42. D** — Double jeopardy analysis requires that jeopardy have attached and that the same offense is being prosecuted. Jeopardy attaches when the jury is sworn (jury trial) or the first witness is sworn (bench trial); the "same offense" test under Blockburger asks whether each offense requires proof of an element the other does not. Both must be established.

**43. C** — A shareholder derivative suit requires that the demand requirement be satisfied or excused. California Corporations Code §800 requires the plaintiff to make a written demand on the board to take action, with particularized pleading required for demand-futility excuse. The demand requirement is the procedural gateway.

**44. A** — The mailbox rule makes acceptance effective on dispatch when sent through an authorized means. The acceptance must be properly dispatched (correctly addressed, postage prepaid) through a means expressly or impliedly authorized by the offeror or reasonable under the circumstances. Improper dispatch destroys the rule's protection.

**45. D** — The best evidence rule requires the original document to prove its contents, with recognized exceptions. FRE 1002 and California Evidence Code §1521 require the original (or qualifying duplicate) unless a recognized exception applies (original lost or destroyed, not obtainable, in opponent's control, collateral matter). The exception analysis is essential.

**46. B** — California applies both the consumer expectation test and the risk-utility test to design defect claims. Under *Barker v. Lull Engineering*, a product is defective if it fails the consumer expectations of

safe operation OR if its risks outweigh its benefits under the risk-utility analysis. Both tests must be considered where the facts support them.

**47. A** — The equal dignities rule requires the agent's authority to be in writing whenever the contract being signed must be in writing. California Civil Code §2309 makes the agent's authority subject to the same formality as the underlying contract under the Statute of Frauds. The writing requirement parallels the underlying transaction's writing requirement.

**48. C** — Subject matter jurisdiction in California state court asks whether the superior court has jurisdiction over the claim type. California superior courts have general civil jurisdiction with specialized divisions (small claims, family, probate, juvenile), and the analysis focuses on whether the claim falls within the court's authority. Party agreement cannot create jurisdiction.

**49. D** — The Rule Against Perpetuities requires the future interest to vest, if at all, within twenty-one years after a life in being at creation. Common-law RAP voids any contingent interest that may vest beyond the perpetuities period, while California's Uniform Statutory Rule (Probate Code §21205) adds a 90-year wait-and-see alternative. The vesting analysis is the heart of the rule.

**50. B** — Client waiver requires informed, voluntary consent, in writing where the applicable rule requires. California Rules of Professional Conduct (including Rules 1.7, 1.8, 1.9, 1.18) require informed written consent for waiver of various conflicts and protections, with "informed" meaning awareness of material risks and reasonably available alternatives. The writing requirement is rule-specific.