

BOARD'S WRITTEN TEST

MARYLAND BAR EXAMINATION

Tuesday, February 23, 2016

Morning Session - 3 Hours

**The Multistate Performance Test is printed in a separate booklet.
Questions 1, 2, and 3 are printed in this booklet.**

IMPORTANT PROCEDURES

- 1. Sit in your assigned seat.** Occupy the place marked with the seat number assigned to you by the State Board of Law Examiners. Scores will be assigned by seat number, and no names shall appear on the answer booklets. Check each of your answer booklets at once to be sure that each bears your seat number. If you find a discrepancy, immediately contact a proctor for assistance.
- 2. Write each answer in the book designated for the question.** The morning session of the Board's Written Test has the Multistate Performance Test (MPT) and three essay questions numbered one through three. There is a separate answer booklet for the MPT and each numbered question. Write your answer for the MPT in the MPT answer booklet, your answer to question 1 in the booklet for question 1, the answer for question 2 in the booklet for question 2, and the answer to question 3 in the booklet for question 3. One team of graders scores all of the answers to a single question. Hence, your answer to a question will not be seen by the grading team and will not be graded unless it appears in the proper booklet.
- 3. Allocate the suggested writing time as you desire.** Each numbered essay question is intended to carry equal weight in the final grade. The MPT carries one and a half times the weight of an essay question. The suggested time to answer each essay question is 25 minutes. The suggested time to answer the MPT is 90 minutes. **Although these suggested times total 2 hours 45 minutes, you will have 3 hours to work on the morning session. You may allocate the difference (15 minutes) in any manner you deem appropriate.**
- 4. You will be allowed one answer booklet for each question.** Begin each answer at the top of a page. Do not copy the questions. Use one side of the page only until you have filled the booklet. Then turn the booklet over and write from back to front if you need more pages. **Do not tear pages from your booklets.** You also may use your test questions (including the MPT) and statutory extract for scratch work.
- 5. Develop your reasoning fully and write legibly.** The Board will not grade an illegible answer. Print your answers if your handwriting is difficult to read.
- 6. Obtain Board Staff Assistance at the end of the test session if you write an answer in the wrong booklet.** Do not waste testing time trying to fix the administrative mistake. When the morning test session concludes, you will be given an opportunity to have the Board's Staff assist you in correcting the problem. Thereafter, any answer appearing in the wrong booklet will not be graded.
- 7. You must turn in all test answer booklets to your proctor.**
- 8. You may keep the essay test questions and statutory extract when testing ends. However, you must turn in the MPT question booklet.**

QUESTION 1 (Tan Answer Book/Tan SofTest™ Header)
(25 Minutes)

Bob Jones is a licensed master plumber who runs a plumbing and HVAC company in College Park, Maryland. A disgruntled customer believes that Bob Jones employed unlicensed plumbers and overcharged him. As a result, the customer filed the proper complaint in the appropriate Circuit Court, seeking money damages.

You, a licensed Maryland attorney, have been retained to appear at the hearing on Jones' behalf.

The attorney for the customer attempts to admit the following evidence at trial:

1. Testimony from Jones' tax preparer that Jones told him that he saved a lot of money by using unlicensed plumbers.
2. Testimony from the customer that Jones offered \$1,000 to her to settle this complaint.
3. On cross-examination, evidence of Jones' 2005 conviction for theft.
4. Testimony from Mike, a former employee of Jones, that he quit because Jones "wasn't a good boss."
5. Testimony from the customer that the customer saw Mike "shake his head 'no'" when Jones told the customer that the plumber assigned to complete the work at his home was fully licensed and bonded.

What objection(s) would you raise to each piece of evidence? How should the court rule and why?

AN EXTRACT HAS BEEN PREPARED FOR YOUR USE IN ANSWERING QUESTION 2. IT HAS BEEN PRINTED SEPARATELY. IF YOU DID NOT RECEIVE A COPY OF THE EXTRACT, PLEASE CONTACT YOUR PROCTOR AND OBTAIN A COPY BEFORE ANSWERING THE QUESTION.

QUESTION 2 (Green Answer Book/Green SofTest™ Header)
(25 Minutes)

Peter purchased a new 96” high-definition television set (the TV) with the latest video technology called “Laser View.” The TV was manufactured by Eastern Television Manufacturers (ETM) and purchased by Peter from Superbuy, a large local electronics retailer. The cost of the TV was \$9,990.

Superbuy timely delivered and properly installed the TV in Peter’s home per ETM’s installation instructions. Within days of the TV’s installation, Peter noticed that whenever he used the TV for more than 20 minutes, a burning smell would emanate from the TV. Peter promptly called Superbuy to complain. Superbuy’s representative told Peter that a technician would be at his home within 48 hours to examine, and if possible, repair the TV. Superbuy also recommended that Peter unplug the TV and not use it until Superbuy’s technician could examine it.

The next evening, Peter came home from work and turned on the TV. He intended to watch the TV for just a few minutes and then turn it off before a burning smell occurred. Peter dozed off with the TV still on. He awoke an hour later to discover the TV engulfed in flames. The resulting fire caused more than \$100,000 in damages to Peter’s home.

Qualified forensic investigators determined that the fire was caused by a defect in the Laser View mechanism. Prior to this fire, neither ETM nor Superbuy was aware of any complaints alleging this defect.

Peter retained counsel to bring suit in the appropriate court against ETM and Superbuy to recover for the damages proximately caused by the defective TV and resulting fire.

- A. What Counts should Peter allege against each defendant?**
- B. What defense should be raised by each defendant?**
- C. Based on the facts stated above, both Peter and Defendants move for Summary Judgment. How should the court rule on the motions for Summary Judgment?**

QUESTION 3 (Yellow Answer Book/Yellow SofTest™ Header)
(25 Minutes)

Jared was legally arrested and charged with first-degree murder in Howard County, Maryland. At the time of his arrest, Jared was properly advised of his constitutional rights.

During his interrogation, Jared asked the interrogating officer whether or not he needed a lawyer. The officer replied simply, "I don't know. Do you?" The officer then continued to question Jared, and Jared continued to answer his questions. Sometime later, Jared stated, "I don't think I should say anything else until I talk to a lawyer." The officer replied, "Well, that is your choice, but I'm just trying to get to the bottom of things here so we can clear this up. If you answer my questions, we might be able to let you go and forget this whole thing. But if you stop talking or lawyer-up, then I've got no choice but to hold you." After considering this, Jared continued to answer the officer's questions. Finally, following approximately six hours of interrogation, Jared confessed to the murder. Immediately after his confession, Jared stated, "Ok. Now I want to talk to a lawyer." The officer then stated that he would contact the attorney whose name Jared had provided and left the room.

The officer returned approximately fifteen minutes later, provided Jared with some water, and told him his lawyer was on the way. Then the officer stated, "While we wait for her, I just had a few minor points I'd like to clear up if you don't mind." Jared said nothing, but when the officer began asking more questions, Jared provided answers. Approximately ten minutes later, and before his lawyer arrived, Jared informed the police precisely where he had disposed of the murder weapon. Upon her arrival, Jared's attorney immediately directed him to stop speaking, and Jared complied.

Jared's attorney has moved to suppress both his statements to the police and the seizure of the murder weapon.

How should the court rule and why?