

*July 2021*  
*MEE*  
*Questions*

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### MEE Question 1

A mother was shopping with her six-year-old son at Big Box store. The son was visually impaired, so his mother, concerned about crowding and jostling by other patrons, restrained him by placing her hand on his shoulder and instructed him to remain in her grasp. Despite his mother's efforts, the son broke free of her grasp and ran toward a nearby candy display. Because he was running and visually impaired, the son did not notice some cheesecake on the floor in the store's self-serve dining area; the cheesecake was flattened and dirty. The son slipped on the cheesecake and fell to the floor, suffering physical injury. Another customer unsuccessfully attempted to help the son to stand, worsening the son's injury by negligently twisting his arm.

Big Box had in place a policy instructing employees to take steps to promptly clean known hazards on the floor, but it did not assign an employee to monitor floor conditions. Big Box employees do not know when any employee had most recently inspected the floor or when the floor had last been cleaned. The self-serve dining area includes displays that contain takeout food, including cheesecake. These displays had last been stocked several days before the son slipped on the cheesecake. On the day the son slipped and fell, a store employee had walked by the self-serve dining area before the son slipped but had not noticed the cheesecake on the floor.

The mother has filed a negligence claim on her son's behalf against Big Box and the customer who attempted to help the son. Both Big Box and the customer claim that the son was negligent.

1. Under the applicable standard of care, are the facts sufficient for a jury to find that the son acted negligently? Explain.
2. Under the applicable standard of care, are the facts sufficient for a jury to find that Big Box acted negligently? Explain.
3. Can the customer be held liable for enhancing the son's injury? Explain.
4. Assuming that only Big Box and the customer were negligent and can be held liable, can the son recover the full amount of damages from Big Box only? Explain.

Do not address the effect of any "Good Samaritan" statute.

## MEE Question 2

Carlos, Diana, and Ethan own all the shares of Winery Inc., which is incorporated in State A. They are equal shareholders of the corporation and the only members of its board of directors. They share responsibilities in the corporation's vineyard and winery. They have no shareholders' agreement.

Recently, Carlos and Diana decided that it would be a good idea to change the corporation's business model. In addition to producing wines from the corporation's own small vineyard using sustainable, organic farming methods, they believe that the business should expand to buy grapes from local vineyards that produce grapes using such methods. They believe this new focus will allow them to attract new customers interested in organic wines. They also see this change and expansion to their business as a way to promote environmentally sustainable organic grape cultivation in their region.

To make this shift in the corporation's business, Carlos and Diana have decided that the corporation should become a "benefit corporation." A benefit corporation, authorized by many states, is a type of for-profit corporation that defines in its articles of incorporation a social or environmental purpose. Benefit-corporation law insulates directors from liability for making business decisions that serve this defined social or environmental purpose, even when their decisions may negatively impact shareholder profits.

State A has adopted the Model Business Corporation Act, which does not explicitly provide for benefit corporations. State A courts have held that domestic corporations must seek to maximize shareholder profits.

State B, which is adjacent to State A, also has adopted the Model Business Corporation Act but has modified its corporate statute to provide for the formation of benefit corporations. To form a benefit corporation, the articles of incorporation must indicate that the corporation has opted to be a benefit corporation and must state a social or environmental purpose for the corporation. The State B statute insulates directors from liability for claims that they did not seek to maximize shareholder profits if their decisions are consistent with the corporation's stated social or environmental purpose.

Carlos and Diana have decided that they can best carry out the new business plan by creating a benefit corporation in State B to operate in State A with the stated social and environmental purpose of "promoting sustainable and organic vineyard, winery, and production practices." They will incorporate the new benefit corporation as Organic Wines Corp. and be its only initial shareholders. Once this corporation is created, they will cause Winery Inc. to merge into it with all the Winery Inc. shares converted into shares of Organic Wines Corp.

Ethan is opposed to the plan, but Carlos and Diana support it.

1. Can Ethan block the merger of Winery Inc. into Organic Wines Corp. by voting against it? Explain.

2. If Winery Inc. merges into Organic Wines Corp., does Ethan have a right to demand that he receive payment in cash (instead of receiving shares in Organic Wines Corp.) equal to the fair value of his shares in Winery Inc.? Explain.
3. Assume that Ethan becomes a shareholder of Organic Wines Corp. Could Ethan successfully sue the Organic Wines Corp. directors in State A for promoting sustainable and organic practices at the expense of maximizing shareholder profits? Explain. Do not discuss whether that suit would have to be direct or derivative.

### MEE Question 3

Fifteen years ago, a woman moved to State A for a temporary job. Shortly after moving to State A, the woman met and briefly dated a man who lived in State A.

Eight months after her relationship with the man ended, the woman, still living in State A, gave birth to a daughter. She then moved to State B with her daughter. The woman was certain that the man was the daughter's father because he was the only person she had had sexual intercourse with while she was living in State A, but she did not contact him to tell him of her pregnancy or the daughter's birth. The woman had no other children. She and the daughter lived together as a two-person household exclusively in State B. The woman told her family and her daughter that the daughter's father had been killed in a car accident.

Two months ago, the daughter, age 14, overheard a conversation between the woman and her oldest friend. The friend said, "Your daughter's father is now an important scientist. His most recent research is in today's newspaper. Don't you think your daughter should meet him?"

The daughter, shocked, found the newspaper and emailed the scientist whose research was described in the paper. In the email, she identified her mother, recounted the conversation she had overheard, and suggested DNA testing. The man agreed to cooperate, and the test confirmed that he was the daughter's biological father. The daughter told the man that she wanted to live with him at his home in State A. The man, wanting to get to know his daughter better, agreed and sent her a bus ticket, which she used without her mother's permission.

Three weeks after the daughter's arrival in State A, the man sued in a State A court to establish his paternity, to gain sole custody of the daughter, and to obtain child support from the woman. The man had the woman served personally in State B.

Under State A's long-arm statute, the State may exercise personal jurisdiction over a nonresident for purposes of determining paternity, child custody, and child support if "the individual engaged in sexual intercourse in this State and the child may have been conceived by that act of intercourse." State A's paternity statute permits the "mother or alleged father to establish paternity at any time during the mother's pregnancy or within 21 years after the child's birth."

The woman moved to dismiss the man's suit, arguing that State A's exercise of personal jurisdiction over her would violate her rights under the due process clause of the Fourteenth Amendment. The trial court denied her motion, and the woman made a special appearance, preserving her right to appeal on the jurisdictional issue. At a hearing on the merits, the woman argued, based on a series of United States Supreme Court opinions, that a putative father may not establish his paternity years after his child's birth unless he registered with a putative father registry or actively participated in his child's care. She also argued that the court lacked authority to issue either a child custody or a child support order.

1. Did the State A court's exercise of personal jurisdiction over the woman violate her rights under the due process clause of the Fourteenth Amendment? Explain.

2. Assuming that the State A court properly exercised personal jurisdiction over the woman, and that the man's paternity is undisputed, does the court have subject-matter jurisdiction to
  - (a) award the man sole custody of the daughter? Explain.
  - (b) require the woman to pay the man child support? Explain.

#### MEE Question 4

A police officer patrolling in his squad car after dark saw a woman lying on the sidewalk near an intersection. A teenage girl standing near her yelled, "Help! That guy just knocked this woman down and took her purse!" The girl pointed toward a man carrying a white purse and sprinting away from the scene.

The officer jumped out of his squad car and shouted, "Stop! Police!" He ran after the man down an alley and between houses. The man leapt a series of backyard fences and ran onto a back porch. The officer, following behind, jumped over a low fence, heard the man fumbling with keys, and saw him unlock the back door of a house. The man rushed inside and slammed the door. The officer tried to open the door, but it was locked. From inside the house, the man yelled, "Get off my porch!" The officer kicked the door open. The man was standing just inside the door, out of breath, and a white purse was on the floor near his feet.

The officer handcuffed the man, grabbed the purse, and walked the man back to the intersection where the woman was sitting on a nearby bench. The teenage girl was gone.

The woman immediately said, "That's my purse." Then she asked the officer, "Is that the guy who took it? I never saw anything. Someone pushed me hard from behind, knocked me down, grabbed my purse, and took off. I was dazed and just lay there until some girl helped me up."

The officer told the man that he was under arrest and placed him in the backseat of the squad car.

Another officer arrived, and a few minutes later the teenage girl returned. The girl began speaking with the second officer, saying, "I was right there. It happened really fast. One second I was waiting for my bus and reading text messages. The next second I heard a woman scream and saw some big guy running past me with a purse."

The girl then noticed the man handcuffed in the backseat of the squad car. She shouted, "Oh my gosh! Hey, I think that's the guy! It was dark, and it happened fast, but, wow. He's right there in the car. I'm pretty sure that's the guy."

The state charged the man with one count of robbery under a state statute that defines the crime as it was defined under the common law.

Relying only on his rights under the United States Constitution, the man has moved the trial court to suppress evidence of the purse and the officer's testimony about where the officer recovered it. The man argues specifically that the officer's entry into his home without a warrant violated his constitutional rights. The man has also moved the court to prohibit any witness from discussing the girl's on-the-scene identification of him and to prohibit her from identifying him in court during trial. He argues specifically that allowing evidence of the teenage girl's identification would violate his constitutional rights.

1. Did the officer's warrantless seizure of the man and warrantless seizure of the purse in the man's home violate the man's Fourth Amendment rights? Explain.

2. Would the trial court violate the man's constitutional due process rights by admitting testimony that reveals the girl's on-the-scene identification of the man or by allowing her to identify him in court? Explain.

Do not discuss any confrontation clause issues.

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### MEE Question 5

Eight years ago, a testator validly executed a will. The will, in pertinent part, provided:

1. I give my house to my friend Doris.
2. I give my residuary estate, in equal shares, to my friend Alice, if she survives me, and to my friend Bill, if he survives me.
3. If any beneficiary under either of the foregoing two provisions of this will predeceases me and my will does not expressly provide otherwise, the heirs of the deceased beneficiary shall take the beneficiary's bequest.

Three years ago, Bill and Doris died.

Doris died testate, bequeathing her entire estate to a charity. If Doris had died intestate, all of her probate assets would have passed to her nephew, her sole heir.

Bill died intestate, and his entire probate estate passed to his daughter, his sole heir.

Last week, the testator died a domiciliary of State A, leaving a probate estate consisting of her house and a bank account with a balance of \$250,000. The testator died with no debts.

State A's anti-lapse statute provides in its entirety:

Unless the decedent's will provides otherwise, if a bequest is made to a beneficiary who predeceases the decedent leaving issue surviving the decedent, the deceased beneficiary's share passes to the issue of the deceased beneficiary.

The testator is survived by Doris's nephew, Bill's daughter, and Alice. The only relative of the testator who survived the testator is her sister. The charity to which Doris bequeathed her estate still exists.

1. Does the state anti-lapse statute or Clause 3 of the testator's will determine who takes the share of a beneficiary who predeceased the testator? Explain.
2. Assuming that Clause 3 of the testator's will applies, who is entitled to the testator's house? Explain.
3. Does the residuary bequest to Bill lapse because of the express survivorship requirement in Clause 2 of the testator's will? Explain.
4. Who is entitled to Bill's one-half share if the bequest to Bill lapses? Explain.
5. Who is entitled to Bill's one-half share if the bequest to Bill does not lapse? Explain.

### MEE Question 6

A 55-year-old woman had been employed for 30 years as a paralegal at a law firm in State A. One year ago, a 28-year-old male attorney became the firm's paralegal manager.

The attorney began criticizing the woman's work and berating her on nearly a daily basis. He made derogatory comments about her and her work to the other paralegals and attorneys in the firm. He nicknamed her "grandma" and told people that "it's time for a new generation to take its place here."

Three months after he took over as paralegal manager, the attorney fired the woman. To replace her, he hired a 22-year-old paralegal. He explained the firing to his coworkers by stating that the woman had stolen valuable supplies from the firm and was neither honest nor trustworthy.

After exhausting all prerequisite administrative remedies, the woman filed an action in the US District Court for the District of State A. Her lawsuit was against the attorney who had fired her. The woman's complaint states two causes of action. First, the complaint asserts that the attorney fired her because of her age, in violation of the federal Age Discrimination in Employment Act of 1967 (ADEA) (under which the attorney is considered an "employer"). Second, the complaint alleges that the attorney made defamatory comments about the woman to other employees of the law firm, thereby committing a tort under State A law. In particular, the woman's complaint alleges that the attorney made comments to others "to the effect that [the woman] was dishonest and a thief," and that "such comments were false and defamatory." The woman's allegations include the approximate dates of the comments and the identity of persons to whom they were made, but the complaint does not recite the exact allegedly defamatory language used by the attorney.

The attorney and the woman are both citizens and domiciliaries of State A, where the law firm's offices are located and where all the events in this matter took place. State A pleading rules require a plaintiff's defamation claim to "allege the time and place where the allegedly false statement was made, the persons to whom it was made, and the particular words constituting defamation." State A courts apply these rules strictly and dismiss complaints seeking damages for defamation if the specific words that are alleged to be defamatory are not stated in the complaint.

The attorney concedes that the court has federal-question jurisdiction over the woman's ADEA claim but has moved to dismiss her defamation claim. The motion to dismiss argues (i) that the federal court lacks jurisdiction over the defamation claim because it is based entirely on state law, and (ii) that the woman did not allege the "particular words constituting defamation" as required by State A.

1. Should the federal court grant the attorney's motion to dismiss the woman's defamation claim on the ground that the federal court lacks jurisdiction over that claim because it is based entirely on state law? Explain.
2. Should the federal court grant the attorney's motion to dismiss the woman's defamation claim on the ground that the woman did not allege the "particular words constituting defamation" as required by State A? Explain.

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Read each fact situation very carefully, and do not assume facts that are not given in the question. Do not assume that each question covers only a single area of the law; some of the questions may cover more than one of the areas you are responsible for knowing.

Demonstrate your ability to reason and analyze. Each of your answers should show an understanding of the facts, a recognition of the issues included, a knowledge of the applicable principles of law, and the reasoning by which you arrive at your conclusions. The value of your answer depends not as much upon your conclusions as upon the presence and quality of the elements mentioned above.

Clarity and conciseness are important, but make your answer complete. Do not volunteer irrelevant or immaterial information.

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