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February 2023 MEE Questions

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MEE Question 1

One year ago, Joan executed a will in which she left her entire estate to her only daughter. At that time, Joan's daughter, Joan's granddaughter (the only child of Joan's daughter), Joan's only son, and Joan's three grandsons (children of her son) were living. Joan's son and her three grandsons had extensive criminal records for theft and burglary.

Joan was not close to her children and grandchildren. She rarely saw any of them, even on holidays, although she regularly sent them birthday cards and inexpensive presents.

Three years ago, Joan's doctor had prescribed her a drug that was known to produce hallucinations in some patients. Joan had difficulties with the drug and began to experience frequent hallucinations leading to her delusion that the male line of her family was "cursed" by Martians. Nonetheless, she continued taking the drug because it was the only medication available to control her medical condition.

When she went to her lawyer to draft her will, she told her lawyer that she wanted to leave all her property to her daughter and nothing to her male line. She explained, "Leaving the males in my family anything valuable would be a complete waste on burglars and thieves."

For the last five years, Joan had regularly had lunch with several friends. All of them were much wealthier than Joan. At these lunches, she often told her friends that she was a "multimillionaire" and owned both a "luxurious" home and a "very expensive" car. They had no reason to doubt Joan's claims because she had never invited them to her home and she took cabs to their lunches. In fact, Joan was never a millionaire, and she never owned either a luxurious home or an expensive automobile. She lived in a modest apartment, and her primary source of income was her Social Security benefits. She monitored her bank account regularly and reconciled her bank statement every month.

One month ago, Joan died, survived by her daughter, her granddaughter, her son, and her three grandsons. At her death, Joan owned no significant assets other than her bank account containing \$100,000.

1. Under the insane-delusion rule, is Joan's will invalid? Explain.
2. Do these facts establish that Joan's will is invalid because she lacked the general mental capacity to execute a will? Explain.
3. Which, if any, of Joan's surviving relatives has standing to contest Joan's will? Explain.

MEE Question 2

Homeowner ordered a pizza to be delivered to his house for lunch. When the pizza delivery driver (Driver) arrived, Homeowner invited him to step inside while Homeowner retrieved his wallet.

A minute later, two police officers arrived at Homeowner's house to execute a valid warrant to search the house for counterfeit \$100 bills. Although the warrant did not explicitly authorize a "no-knock" entry, the officers kicked open Homeowner's front door and entered the house without knocking and without announcing their identity and purpose.

One officer detained Homeowner and Driver in the hall near the front door while the second officer began to search the house. The first officer saw a lump in the back pocket of Driver's pants, which she thought could be a handgun. Concerned that Driver might harm her if he had access to a handgun, the officer decided to pat him down. While patting him down, the officer discovered that the lump was not a weapon but a soft object. She could not determine what the object was by patting the outside of Driver's pants, so she reached into his pants pocket and retrieved a plastic bag containing marijuana. Possession of marijuana is a crime in the state. The officer seized the bag of marijuana.

Meanwhile, the second officer, who was searching the house, noticed a desktop computer sitting on Homeowner's kitchen counter. The officer saw a serial number visible on the top of the computer, and she discovered, through a quick search using a law-enforcement app on her cell phone, that the serial number appeared on a list of serial numbers of recently stolen computer equipment. She seized the computer.

In Homeowner's bedroom, on a nightstand next to the bed, the second officer found a two-inch-tall, unlabeled, transparent medicine bottle that contained several pills with no markings on them. She seized the bottle and the pills. Later testing by the police crime lab showed that the pills were illegal narcotics. The second officer completed her search of the house without finding any counterfeit money.

The officers arrested Homeowner and Driver, and the state prosecuted them based upon the items seized in the search. Homeowner and Driver challenged the admission of evidence based only on rights protected by the United States Constitution. Neither Homeowner nor Driver has raised any constitutional objections to their brief detention during the search.

1. Should the officers' entry into the house result in the exclusion of evidence? Explain.
2. Assuming that the officers' entry into the house does not result in the exclusion of evidence, should the following conduct result in the exclusion of evidence?
 - (a) the officer's seizure of the marijuana from Driver
 - (b) the officer's seizure of the computer from Homeowner
 - (c) the officer's seizure of the narcotics from Homeowner

Explain.

MEE Question 3

Big City, in State A, and Small Town, in State B, are located 10 miles apart.

A woman and a man were driving in State B when their cars collided with each other. The collision seriously injured the man. Shortly after the collision, the man sued the woman in the federal district court for the District of State B, properly invoking the court's diversity jurisdiction. The woman is a citizen of State A; the man is a citizen of State B. The man's complaint sought damages of \$250,000 and alleged that the woman's negligent driving had caused the accident and his injuries.

The woman immediately contacted her automobile insurance company to notify it about the lawsuit and to ask the company to provide an attorney to represent her in the action and to indemnify her against any liability, as required by the terms of the insurance policy. The insurance company, however, refused to provide an attorney. The insurance company also told the woman that because she had not paid her premiums for several months before the accident, her policy had lapsed and therefore did not cover the accident. The woman insisted that she was current on her payments and that the policy should still be in effect.

The woman then went to the clerk's office for the federal district court for the District of State B, which is located in Small Town. She timely filed an answer to the man's complaint. She simultaneously timely filed a complaint against the insurance company, naming it as a "third-party defendant" in the action pending against her in that court and alleging that the insurance company was obligated under the insurance policy to defend her in the man's suit and to indemnify her if she was found liable to the man. She also obtained from the clerk of court a summons to the insurance company requiring the company to file an answer to the woman's complaint or be subject to a default judgment. She then returned to State A, where she hired a process server. Ten days later, the process server personally delivered the summons and complaint to the president of the insurance company at its headquarters in Big City, State A.

The insurance company does no business in State B and has no facilities in State B.

The insurance company moved to dismiss the complaint against it. The district court granted the motion, ruling that (a) the insurance company "cannot be joined to the suit as a third-party defendant because its presence is unnecessary to resolve the dispute" between the man and the woman and (b) "the court lacks personal jurisdiction over the insurance company because the company lacks sufficient contacts with State B."

1. Do the Federal Rules of Civil Procedure permit the woman to bring the company into the action as a third-party defendant? Explain.
2. Assuming that the Federal Rules of Civil Procedure permit the woman to bring the company into the action, does the court have personal jurisdiction over the company, despite the company's lack of contacts with State B? Explain.
3. Under the Federal Rules of Civil Procedure, what actions, if any, could be taken by the district court to allow the woman to immediately appeal the court's dismissal of her complaint against the insurance company? Should the court take those actions? Explain.

MEE Question 4

Shortly after passing the State X bar examination and being admitted to the bar, a lawyer decided to open her own practice as a sole proprietorship in State X, which is her principal residence. The lawyer wanted a couch for her new office's waiting room and went to a furniture store in State X where she found a couch that she liked. She asked if she could buy the couch on credit, saying, "This is for the waiting room of my new law office." The salesperson responded that the store would sell the couch to her on credit if her obligation to pay was secured by the couch. The lawyer agreed and bought the couch on those terms.

As part of the sale, both the lawyer and the salesperson (who had authority to sign on behalf of the store) signed a "Credit Sales Agreement" that stated that the lawyer granted the store a security interest in the couch (described in the agreement by manufacturer and model number) to secure the lawyer's obligation to pay the purchase price.

On her way out of the store, the lawyer saw a table that she thought would be ideal for her home. She asked the salesperson if she could buy the table on credit, saying, "This would look great in my dining room." This time, the salesperson said, "This is a popular model, so we have a special financing deal. You can get the table on credit and have it delivered tomorrow, but we retain title to the table until you finish paying for it. Does that work for you?" The lawyer said that it worked for her and bought the table on the terms outlined by the salesperson. She signed an agreement that described the table by manufacturer and model number and that stated that the store would retain title to the table until she finished paying for it.

The next day, the store delivered the couch to the lawyer's office and delivered the table to the lawyer's home.

The furniture store in State X did not file a financing statement with respect to either the couch transaction or the table transaction.

Six months later, the lawyer passed the bar examination in State Y, where her parents had a home at which she stayed for a few weeks each year. After being admitted to the State Y bar, the lawyer decided that she wanted to be able to represent clients in State Y while she was staying at her parents' home. The lawyer decided to furnish a room in her parents' home as an office and to buy a desk for the office.

She went to a furniture store in State Y and agreed to buy a desk on credit, with her payment obligation secured by a security interest in the desk. She signed an agreement granting the store a security interest in the desk (described in the agreement by manufacturer and model number). The store immediately filed a financing statement in the State Y central filing office for financing statements. The financing statement listed the lawyer as the debtor, named the furniture store as the secured party, and indicated the desk (described by manufacturer and model number) as the collateral.

The store delivered the desk to the lawyer's State Y office the next day. The desk was used by the lawyer only in conjunction with her law practice.

At all relevant times, the lawyer's principal residence was in State X.

1. Does the State X furniture store have an enforceable and perfected security interest in the couch used by the lawyer in her office waiting room in State X? Explain.
2. Does the State X furniture store have an enforceable and perfected security interest in the table used by the lawyer in her dining room in State X? Explain.
3. Does the State Y furniture store have an enforceable and perfected security interest in the desk used by the lawyer in her office in State Y? Explain.

MEE Question 5

In 1901, Smith owned a three-acre undeveloped parcel of land in State A. He validly subdivided the parcel into two lots. Both undeveloped lots remained in the Smith family until 2005, when John purchased the lot that comprised the western two acres and Beth purchased the lot that comprised the eastern one acre. Both John and Beth promptly recorded their valid deeds.

In 2009, one of Smith's descendants purported to convey to Wendy by quitclaim deed the entire three-acre parcel that had originally belonged to Smith. The quitclaim deed accurately described the three-acre parcel.

On January 1, 2010, Wendy began to occupy one acre of the three-acre parcel purportedly conveyed to her in 2009, specifically, one acre of John's two-acre lot.

In 2016, John died, survived by Mary, his 12-year-old daughter and sole heir.

On March 1, 2022, Wendy brought a quiet-title action against Mary and Beth, alleging ownership of all three acres by adverse possession.

For the purpose of the action, and to avoid confusion, the trial court labeled each acre of the original three-acre parcel as follows:

- the "Western Acre" (which is the western half of the land described in John's deed);
- the "Central Acre" (which is the other half of the land described in John's deed and which Wendy occupied); and
- the "Eastern Acre" (which is the land described in Beth's deed).

The facts at trial established that (1) the quitclaim deed from Smith's descendant gave Wendy colorable title to the three-acre parcel described in that deed; (2) from 2010 until the end of 2021, Wendy possessed the Central Acre in a manner that was actual, open and notorious, continuous, exclusive, and hostile and under claim of right; (3) Wendy ceased her actual possession of the Central Acre on January 1, 2022; and (4) neither the Western Acre nor the Eastern Acre had ever been possessed by any of its owners or by Wendy.

The state's adverse-possession law provides:

An action to recover title to or possession of real property shall be brought within 10 years after the cause of action accrues. However, if at the time the cause of action accrues, the person entitled to bring that action is under 18 years of age, such person, after the expiration of 10 years from the time the cause of action accrues, may bring the action to recover title or possession within five years after reaching the age of 18.

1. In 2020, did Wendy acquire title by adverse possession to the Central Acre? Explain.
2. Assuming that Wendy acquired title by adverse possession to the Central Acre in 2020,
 - (a) did she also acquire title to the Western Acre in that year? Explain.
 - (b) did she also acquire title to the Eastern Acre in that year? Explain.

MEE Question 6

A woman (Plaintiff) has filed a civil action in the federal district court for State A against her former landlord (Defendant) seeking damages under State A law for invasion of privacy, which in State A requires a finding of intent. The federal court has diversity jurisdiction over the suit and personal jurisdiction over Defendant.

Plaintiff's complaint alleges the following facts:

1. While Plaintiff was a college student, she rented an apartment in a building owned and managed by Defendant.
2. One day, as Plaintiff dressed after showering, she saw a gleam of light through a small hole in a wall of her bathroom. Then she saw an eye looking through the small hole from the other side. She put on her bathrobe and ran from her apartment into the hall of her apartment building, where she saw Defendant leaving a utility closet that shared a wall with her bathroom. Plaintiff accused Defendant of peeking at her from inside the closet.
3. Defendant first told Plaintiff that he had been in the closet "just to put things away" and then said that he would evict her from her apartment if she told anyone "what happened."

Defendant's answer admits the allegations in paragraph 1 but denies the allegations in paragraphs 2 and 3. Defendant's answer alleges that he was inside the closet inspecting a water heater and that, at the time of the incident, he had not known that the hole in the wall existed or looked through it.

The parties have filed pretrial motions to exclude evidence.

Defendant seeks to exclude from evidence statements that he made in court when pleading guilty to a criminal voyeurism charge that was based on the same facts alleged in Plaintiff's complaint. Under questioning by the judge, Defendant admitted that he knew about the hole in the closet and that he had repeatedly used it to spy on Plaintiff while she was dressing. Although Defendant initially pled guilty to the criminal voyeurism charges, he later withdrew his guilty plea. The criminal case against Defendant is still pending.

Defendant also seeks to exclude from evidence deposition testimony of a man who previously rented the same apartment as Plaintiff. The man stated in a deposition taken by Plaintiff that he once confronted Defendant "about the utility closet and his perversion" when he caught Defendant watching him under circumstances nearly identical to those described in Plaintiff's complaint. Defendant and his attorney were present at the man's deposition and had an opportunity to examine him. The man currently lives and works in a jurisdiction hundreds of miles from State A, and he has refused to attend the trial and testify in person despite extensive efforts by Plaintiff to convince him to do so.

Plaintiff plans to testify at the trial. She is now in graduate school. She seeks to exclude any evidence, including testimony, that she plagiarized her college senior thesis and lied about the plagiarism on her recent graduate school application.

How should the court rule on the motion to exclude each of the following?

1. The admissions of Defendant made in connection with the guilty plea he later withdrew. Explain.
2. The deposition testimony of the man who stated that Defendant watched him under similar circumstances to those alleged by Plaintiff. Explain.
3. Evidence that Plaintiff plagiarized her senior thesis in college and lied about it on her graduate school application. Explain.

MULTISTATE ESSAY EXAMINATION DIRECTIONS

You will be instructed when to begin and when to stop this test. Do not break the seal on this booklet until you are told to begin.

You may answer the questions in any order you wish. Do not answer more than one question in each answer booklet. If you make a mistake or wish to revise your answer, simply draw a line through the material you wish to delete.

If you are using a laptop computer to answer the questions, your jurisdiction will provide you with specific instructions.

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.

Examinees testing in UBE jurisdictions must answer questions according to generally accepted fundamental legal principles. Examinees in non-UBE jurisdictions should answer according to generally accepted fundamental legal principles unless your testing jurisdiction has instructed you to answer according to local case or statutory law.