

**OUT-OF-STATE
ATTORNEY'S EXAMINATION
MARYLAND BAR EXAMINATION
TUESDAY, FEBRUARY 21, 2017
(100 POINTS – 3 HOURS)**

IMPORTANT

1. **Sit in your assigned seat.** Be sure you are occupying the place marked with your assigned seat number. Check your answer book at once to be sure that it does bear the same number. If it does not, contact a Proctor at once.
2. **Allocate the suggested writing time as you desire.** The questions will indicate the number of points allotted and the time estimated to answer each one. The maximum score for the examination is 100 points. The estimate of time on each question is merely suggested.
3. **Use one answer book for the entire test.** Begin each answer at the top of a page. Do not copy the questions. Use one side of page only until you have filled the book. Then turn the book over and write from back to front if you need more pages. **Do not tear pages from your book. You may use the test questions for scratch work.**
4. **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.
5. **Cite the applicable rules and statutes.** Since this is an open-book examination, you will be expected to make a reference in your answer to the Rule(s) or statutory source(s) upon which your answer is based.

YOU MAY KEEP THIS PAPER.

Point Values and Suggested Time for Questions

	<i>Point Values</i>	<i>Suggested Time</i>
Question 1	5	9 minutes
Question 2	15	27 minutes
Question 3	25	45 minutes
Question 4	20	36 minutes
Question 5	5	9 minutes
Question 6	20	36 minutes
Question 7	10	18 minutes
TOTALS FOR EXAMINATION	100 POINTS	180 MINUTES (3 HOURS)

QUESTION 1

(5 points – 9 minutes)

Defendant was convicted of solicitation to commit murder and was sentenced to a period of incarceration of 25 years with 10 years suspended. The sentence was imposed on April 25, 2010.

Defendant timely filed a motion to modify his sentence. He also noted a timely appeal to the Court of Special Appeals, which affirmed the conviction on September 18, 2011.

On June 5, 2016, the Trial Court granted Defendant a reduction of his sentence to "time served."

Was the Trial Court's reduction of sentence permissible? Explain your answer fully.

QUESTION 2

(15 points – 27 minutes)

Beta Corp. obtained a judgment against Abel Jones on July 1, 2004, in the Circuit Court for Garrett County, Maryland, and the judgment was indexed on that date in that county. At the time the judgment was entered, Abel was married to Carla Jones and had one minor daughter, Delia Jones, from a previous marriage. Also at that time, Abel owned a parcel of property in Garrett County, Maryland, on which stood a house where Abel lived with Carla and Delia.

In July 2005, Abel became ill and made arrangements for Carla Jones to become the Court-appointed guardian of Delia. In September 2005, Abel conveyed the house to "Carla Jones, Guardian and Next Friend of Delia Jones." Abel died in October 2015 (his estate is presently being probated in the Orphans Court for Garrett County). Carla and Delia, who is still a minor, have continued to live in the house since Abel's death.

On January 15, 2016, Beta Corp. requested a writ of execution to have the Sheriff levy upon the property of Abel to satisfy the money judgment. Beta Corp. gave instructions that service be made on "Carla Jones, Guardian and Next Friend of Delia Jones" at the time of the levy on the house and on Abel's estate. The writ was delivered to the Garrett County Sheriff on April 28, 2016. The Sheriff served Carla Jones with the writ on April 29, 2016, which was the same date the writs were posted on the house and served on the Personal Representative of Abel's Estate. Carla responded by denying that she had any interest in the house. Upon receipt of her response, Beta Corp. immediately filed an amended request for a writ of execution which added only "and Delia Jones, a minor." The Sheriff of Garrett County received the amended writ on July 3, 2016, and served Carla with the amended writ on July 5, 2016. Carla now claims the entire ownership of the house free from the judgment.

Based on the given facts, is there now a valid judgment in favor of Beta Corp. against the house? Discuss your answer in detail and provide your procedural arguments for Carla and for Beta Corp.

QUESTION 3

(25 points – 45 minutes)

Fred filed suit against George in the Circuit Court for Cecil County, Maryland. George answered the Complaint, but did not appear for trial. The Circuit Court entered judgment in the amount of \$35,000 on October 28, 2016.

George, acting without an attorney, now wishes to challenge the judgment.

A. What are George's post-trial options other than appeal? Explain your answer fully.

B. When must he file in order to be certain to protect his right to appeal? Explain your answer fully.

Assume George files to "change the judgment." His filing takes place on November 20, 2016, and is dismissed by the Court on December 15, 2016.

C. May he appeal the original judgment? Explain your answer fully.

Instead, assume George files to "change the judgment" on Monday, November 28, 2016, which is the Monday after Thanksgiving and falls 31 days from the date of judgment.

D. Was George's request timely? Explain your answer fully.

Instead, assume George takes no action whatever until December 15.

E. Is there any way for George to preserve his claim? Why or why not? Explain your answer fully.

QUESTION 4

(20 points – 36 minutes)

Darlene was an employee for Evelyn in her small business. Evelyn "let Darlene go" when there was insufficient work to continue her employment. Darlene contends that at the termination of her employment Evelyn owed her \$5,100. Darlene desires to file suit in the District Court. She has been told it is the quickest way to get a result. Darlene also believes that Evelyn will not show up for trial because she knows she owes Darlene the money.

A. What procedures should Darlene use to avoid a trial if Evelyn does not appear? Explain your answer fully.

Darlene obtains judgment against Evelyn, but has no idea what assets Evelyn may have.

B. How should Darlene proceed? Explain your answer fully.

Darlene learns that Evelyn has a bank account in C-Bank.

C. How should Darlene proceed? Explain your answer fully.

Assume that C-Bank does not respond to Darlene's inquiry regarding the bank account.

D. How should Darlene proceed? Explain your answer fully.

QUESTION 5

(5 points – 9 minutes)

Jed owns real property in Allegany County and was cited under the County's Junk Abatement Ordinance for an accumulation of junk on his property. The ordinance provided for an administrative hearing and appeal to the circuit court. An administrative hearing was held, and the hearing officer found that Jed was in violation of the Junk Abatement Ordinance. Jed timely appealed the ruling of the administrative hearing to the Circuit Court for Allegany County, which upheld the finding of the hearing officer. Jed then filed a timely appeal to the Maryland Court of Special Appeals with regard to the circuit court's ruling; the Court of Special Appeals dismissed Jed's appeal on the basis that the court had no authority to hear an appeal of the circuit court's ruling.

On what basis could the appellate court find it had no jurisdiction? Explain your answer fully.

QUESTION 6

(20 points – 36 minutes)

Alice contracted with Bill and Charles for home improvement work. She wants to claim \$27,000 in damages for work for which she paid them but was left uncompleted. Bill and Charles are independent contractors but sometimes work together.

Alice resides in Montgomery County, Maryland. Bill resides in Calvert County, Maryland. Charles resides in Bedford County, Pennsylvania.

Alice was able to obtain service on Bill in Calvert County. Alice spoke to Charles by phone who said, "You will never get service on me. I'm leaving Maryland and never coming back."

Bill was served with Alice's suit on November 6, 2016. He filed an Answer, denying liability on November 20, 2016. On December 3, 2016, Bill filed a Motion to Dismiss Alice's Complaint alleging insufficiency of process.

A. In what Maryland Court(s) may Alice bring her action?

B. How might Charles be properly served? Explain your answer fully.

C. How should the court rule on the Motion to Dismiss? Explain your answer fully.

Assume the suit was properly filed in the Circuit Court for Montgomery County and that Charles was properly served in Bedford County, Pennsylvania, on November 10, 2016. On December 13, 2016, having received no Answer, Alice moves for a judgment by default against Charles.

D. How should the court rule on Alice's Motion for Judgment by Default? Explain your answer fully.

QUESTION 7

(10 points – 18 minutes)

Abe took and passed the New York Bar Exam and was admitted to practice law in New York. Abe is not now, nor has he ever been, a member of the Maryland Bar. Since his admission to the Bar in New York, however, he has maintained his only law office in Prince George's County, Maryland. Abe's letterhead and business cards for his practice state, "The Law Office of Abe and his Associates, Attorneys and Counselors at Law," and lists his Prince George's County, Maryland, address, telephone, and fax numbers. Abe located near the Nation's capital intending to represent clients in federal immigration cases, a practice which is permitted under his New York license.

In the course of his immigration cases, Abe encountered several clients who were involved in recent automobile accidents resulting in personal injury to those clients. Abe settled one of those cases and received a check in the amount of \$6,000 from Insurance Company, made payable to "Abe, Attorney at Law and His Client." Abe cashed the check, took \$2,000 as his fee, and sent the remaining \$4,000 to his client.

Abe also made written settlement demands and exchanged correspondence with Insurance Company regarding accident claims on behalf of two other immigration clients. Insurance Company became suspicious and contacted Bar Counsel because its adjusters could never reach Abe by phone.

Bar Counsel conducted an investigation. Insurance Company furnished Bar Counsel with a number of documents on Abe's letterhead related to the accident claims. As part of its investigation, Bar Counsel interviewed Abe, who said he practiced only immigration law. When confronted with the various documents and correspondence with Insurance Company, Abe told Bar Counsel that Bill, a Maryland attorney, told Abe that Abe could settle non-immigration claims for any client Abe represented in an immigration matter. When contacted by Bar Counsel, Bill produced a letter Bill had written to Abe informing Abe that he could NOT do so.

What rules of professional conduct may Abe have violated? Explain your answer fully.

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