

**OUT-OF-STATE  
ATTORNEY'S EXAMINATION  
MARYLAND BAR EXAMINATION  
TUESDAY, JULY 28, 2015  
(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	10	18 minutes
Question 2	10	18 minutes
Question 3	10	18 minutes
Question 4	10	18 minutes
Question 5	30	54 minutes
Question 6	5	9 minutes
Question 7	10	18 minutes
Question 8	15	27 minutes

<b>TOTALS FOR EXAMINATION</b>	<b>100 POINTS</b>	<b>180 MINUTES (3 HOURS)</b>
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## **FACTS FOR QUESTIONS 1 THROUGH 3**

Creditor, a resident of Anne Arundel County, Maryland, lent \$30,000 to Debtor, who resides and is employed only in Prince George's County, Maryland. The loan was evidenced by a valid promissory note, signed by Debtor, dated January 1, 2014. The Note bears interest at 5% per annum. Principal and accrued interest was due and payable on December 31, 2014. The Note includes a provision requiring Debtor to pay reasonable attorney's fees in the event of a default.

Debtor did not pay the Note when due. Creditor turns the Note over to you, a Maryland attorney, and instructs you to file a civil action against Debtor immediately to recover the debt plus interest and attorney's fees. Your law office is located close to the courts in Baltimore County.

### **QUESTION 1**

*(10 points - 18 minutes)*

- a. Explain in which Maryland court(s) you could file the Action.**
- b. In which court would you file the Action and why would you file in that court?**

### **QUESTION 2**

*(10 points - 18 minutes)*

Your Action is successful. On March 1, 2015, Creditor obtains a final judgment against Debtor in a Maryland District Court for \$30,000 plus pre-judgment interest of \$1,500 and a 10% attorney's fee (\$3,000). Creditor authorizes you to collect the judgment. You discover that Debtor owns five acres improved by a cabin in Garrett County, Maryland, and maintains a bank account at First Bank in Maryland.

**What procedures would you use to obtain a lien on the real estate and to enforce the judgment against the bank account? Explain fully.**

### **QUESTION 3**

*(10 points - 18 minutes)*

Nothing has been paid or collected on the judgment. On September 1, 2015, Debtor contacts you and requests an itemized statement to fully satisfy the judgment. Court costs are \$125.

**Prepare an itemized statement as of September 1, 2015.**

## FACTS FOR QUESTIONS 4 THROUGH 7

Marcia, age 26, taught music at a high school. Alex, age 16, one of her students, told his mother that Marcia had invited him to her apartment in Carroll County, Maryland, where they had sex. Alex and Mother reported the alleged incident to school officials on October 1, 2013. As a result, Marcia was suspended immediately from her teaching position. She subsequently was indicted for sexual offenses. She was tried and acquitted of all charges in October 2014.

Shortly after the trial, Alex and Mother moved to St. Paul, Minnesota. On December 5, 2014, Marcia, through her attorney, filed a civil action for slander against Alex and Mother in the Circuit Court for Carroll County, Maryland. The lawsuit is validly served on Alex and Mother in Minnesota.

### QUESTION 4

*(10 points - 18 minutes)*

Alex and Mother retain you, a Maryland attorney, to represent them. Mother has some questions for you:

- a. "Can that woman really sue us in Maryland?"
- b. "Is there some way you can get this case thrown out of court and dismissed?"

**Answer Mother's questions. Explain your reasons.**

### QUESTION 5

*(30 points - 54 minutes)*

Assume Alex and Mother are properly sued in Maryland. Marcia's lawsuit is tried before a jury in the Circuit Court for Carroll County. You represent Alex and Mother. In opening statement, you lay out their defense: The statements made by Alex and Mother about Marcia are true. She and Alex did have sex in Marcia's apartment on several occasions in the summer and fall of 2013. At trial, Alex testifies and, on cross examination, Marcia's attorney attacks his credibility.

You seek to introduce the following evidence, over objection by Marcia's lawyer:

- a. Certified court record that Marcia had been convicted of disorderly conduct when she was an 18 year-old college student.
- b. Testimony from a licensed certified social worker that Marcia told her during counseling that she fantasized about having sex with teenage boys.
- c. Testimony by two male high school students that in 2013, while minors, Marcia had invited each of them to come to her apartment after school, but that neither had actually gone there.
- d. Testimony of Marcia's former roommate that Marcia had told her in 2012 that she wanted to have sex with a teenage boy.
- e. Testimony from Mother that Alex had a reputation for truthfulness in the community.
- f. Testimony from Alex's best friend that Alex had told him in September 2013 that he and Marcia had sex.

**How should the trial judge rule on each of these objections? Explain the basis for the rulings.**

## QUESTION 6

*(5 points - 9 minutes)*

After Marcia's case in chief, you move for judgment; your motion is denied. After the close of all evidence, you move for a directed verdict, which is denied. The jury finds that Alex and Mother slandered Marcia and awards her economic damages of \$50,000 and non-economic damages of \$1,000,000 against Alex and Mother jointly. The trial court enters a judgment confirming these awards.

- a. **What post-trial motions will you file on behalf of Alex and Mother?**
- b. **When would you file these motions?**

## QUESTION 7

*(10 points - 18 minutes)*

After all post-trial motions have been decided, Alex and Mother instruct you to appeal. However, they do not have sufficient funds to pay you to prosecute an appeal and you have not agreed to represent them in an appeal.

- a. **What are your ethical responsibilities, if any, to Alex and Mother under the Maryland Rules of Professional Conduct with respect to taking the appeal?**
- b. **To which Court should an appeal be filed?**
- c. **How and when is an appeal filed?**

## QUESTION 8

*(15 points - 27 minutes)*

On January 8, 2015, Defendant was arrested and charged with speeding, disorderly conduct, and resisting arrest in Cecil County, Maryland. Trial was scheduled for July 20, 2015, in the District Court of Maryland for Cecil County.

Before trial, the state's attorney offered to stet the charge of resisting arrest, which Defendant accepted.

On the date of trial, Defendant decides he does not want to go before the assigned judge.

- a. **What, if any, action can you ethically take to achieve Defendant's request?**

At trial, Defendant was found guilty of speeding and disorderly conduct.

At the sentencing, Defendant was given the opportunity to have the guilty finding stricken, receive probation before judgment for disorderly conduct, and was placed on supervised probation for two (2) years.

Defendant was fined \$500 for speeding.

- b. **Discuss Defendant's post trial rights for each charge.**
- c. **Defendant has requested you have his record expunged. How do you advise?**