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Question: 53

Homer is paralegal working for the Law Office of Marge Simpson. Ms. Simpson is handling a real estate case that involves Lot A and Lot B, which are adjacent to each other. The owner of Lot A began digging a hole on his lot as the basement for the house he wanted to build. One edge of the hole was near the boundary line with Lot B, and during the digging process the edge near Lot B collapsed and part of Lot B fell into the hole on Lot A. As Ms. Simpson is drafting a motion, she asks Homer to find cases with facts similar to the fact of this case. Which of the following cases is most analogous to the case Ms. Simpson is handling?

- A. A case in which a mining company operated an open-pit mining operation on land that it owned and one area of the open-pit mine collapsed on a hauling company's truck.
- B. A case in which two neighbors owned adjacent lots in a subdivision, and one neighbor's above-ground swimming pool sprung a leak and flooded the other neighbor's property.
- C. A case in which a farmer owned the surface rights to farmland, and a mining company owned the subsurface mining rights, and a mining operation caused the surface to collapse.
- D. A case in which a driver lost control of her vehicle on an icy, rural road, and the vehicle left the road and ran through a landowner's flower garden.

Answer: C

A case in which a farmer owned the surface rights to farmland, and a mining company owned the subsurface mining rights, and a mining operation caused the surface to collapse. Answer C is the most analogous answer choice because both the basement-digging scenario and the subsurface-mining scenario involve digging or an operation that causes a loss of support on adjacent property. Answer A is not analogous because the open-pit-mining scenario does not involve two owners of real estate. Answer B is not the most analogous because it involves a

material (water) on the negligent neighbor's lot that enters the other neighbor's lot (rather than the other neighbor's soil collapsing into the negligent owner's land). Answer D is not analogous because it involves a driver and a landowner, not two landowners.

Question: 54

Which of the following sentences does NOT correctly capitalize the reference to a government?

- A. Seattle is a city in Washington State.
- B. The state of Illinois prohibits texting while driving.
- C. The district of Columbia is the capital of the United States.
- D. The City of New Orleans was a train that ran between Chicago and New Orleans.

Answer: C

The district of Columbia is the capital of the United States. The terms "city," "county," "state," and similar terms are capitalized if they follow the name of the city, county, or state and are considered part of the name. Answer C is the correct answer because "District of Columbia" (with "district" capitalized) is the proper, full name for the U.S. capital. Neither Answer A nor Answer B are correct choices because "city" and "state" are not capitalized. Answer D is not the correct choice because "City of New Orleans" does not refer to a government.

Question: 55

A jurat is to a notary block as a(n) _____ is to a(n) _____.

- A. trustee : beneficiary
- B. affidavit : affiant
- C. verdict : judgment
- D. code law : statutory law

Answer: D

A jurat is to a notary block as a code law is to a statutory law. A jurat is another term for a notary block, and code law is another term for statutory law. Answer A

is not correct because trustee and beneficiary are not synonymous terms. Answer B is not correct because affidavit and affiant are not synonymous terms-an affiant is a term that refers to the person who made the affidavit. Answer C is not correct because a verdict reflects the findings and decision of the jury, and a judgment is entered by the judge.

Question: 56

Peter Plaintiff was walking down the sidewalk next to Dagmar's Microbrewery. As he passed under an open window on the second floor of the brewery, Peter was hit by a falling barrel that caused serious injury to his head and arm. Peter filed a negligence action against Dagmar's Microbrewery. At trial, Dagmar's Microbrewery admits that the barrel was from the microbrewery and that Dagmar's Microbrewery owed a duty of care to others under negligence law. Peter also offers evidence of his injuries and medical expenses. Peter was unable to offer any other evidence. From the answer choices below, what additional evidence would be most helpful to completing Peter's negligence claim?

- A. That the barrel was under the control of Dagmar's Microbrewery and that it fell as a result of an employee's carelessness.
- B. That Dagmar's Microbrewery is responsible for the acts of its employees under the doctrine of respondeat superior.
- C. That Dagmar's Microbrewery is the manufacturer and owner of the barrel.
- D. That Dagmar's Microbrewery intended to use the barrel to store and transport its product.

Answer: A

That the barrel was under the control of Dagmar's Microbrewery and that it fell as a result of a breach of the duty of care. Answer A would be the most helpful because it would support the breach of duty element of a negligence claim. Answer B is not the best answer because, even if established, respondeat superior does not prove a breach of duty. Answer C is not the best response because it is irrelevant whether Dagmar's made the barrel. Answer D is not the best response because how Dagmar's intended to use the barrel is irrelevant.

Question: 57

Which of the following sentences correctly uses the present tense?

- A. Carter will owe a duty of care to Peter because Carter will be driving on Highway 5 and Peter will be riding his bicycle on Highway 5.
- B. Amber owed a duty of care to Phil because Amber invited Phil onto her property for the birthday party.
- C. Miguel owes a duty of care to Anna because Miguel drives his car on the road and Anna walks on the side the road.
- D. George has owed a duty of care to Jerry because George has driven on a road when Jerry was a pedestrian on the road.

Answer: C

Miguel owes a duty of care to Anna because Miguel drives his car on the road and Anna walks on the side of the road. The present tense is formed by adding an “s” to the end of the verb or by using the present tense of an irregular verb. Answer C is the correct choice because it uses the present tense of the verb “to owe,” the present tense of the irregular verb “to drive,” and the present tense of the verb “to walk.” Answer A is not the correct choice because the verbs are stated in the future tense. Answer B is not the correct choice because the verbs are stated in the past tense. Answer D is not the correct choice because the verbs are stated in the present perfect tense.

Question: 58

Camille is a paralegal who just started working for attorney John Baxter. John practices mainly in personal injury and civil litigation, but Camille has never worked in litigation before. In the Tran case, John filed a motion for summary judgment about three months ago. The defendant filed a response to the motion, and John then filed a reply. As such, the motion for summary judgment is fully briefed. John has now asked Camille to call the judge’s office and find out if the hearing date has been set-and if it has not been set, work out a hearing date with the court and the defendant’s attorney. The rule on ex parte communications prevents attorneys from speaking with the judge or the judge’s staff about a case unless the opposing counsel is present. Can Camille call the court as requested?

- A. No, because the rule prohibits any ex parte communication with the judge or judge’s staff, including communications by an attorney’s employee.
- B. No, unless Camille gets someone from the opposing counsel’s office on the line in a conference call with the judge’s office.

- C. Yes, because the rule on ex parte communications does not prohibit routine communications by staff on procedural matters, such as scheduling.
- D. Yes, because Camille's employer has authorized her to call the judge's staff.

Answer: C

Yes, because the rule on ex parte communications does not prohibit routine communications by staff on procedural matters, such as scheduling. A paralegal or a legal secretary can speak with the judge's staff about non-substantive matters; this is necessary on a practical level to facilitate court business. Answer A is not correct because the ex parte rule is not an absolute prohibition. Answer B is not correct for the same reason as Answer A, but sometimes such conference calls are helpful in coordinating schedules. Answer D is not correct because an employer's authorization would not overcome the rule.

Question: 59

When a text includes a long quotation, the block quotation format is followed that places the quotation after a colon and in a separate paragraph that is indented from each margin, without quotation marks. What is the length of a quotation that requires block quotation?

- A. 25 words or more.
- B. 40 words or more.
- C. 50 words or more.
- D. 75 words or more.

Answer: C

50 words or more. This is the length that requires block quotation under Rule 5.1 of The Bluebook.

Question: 60

Which of the following correctly uses a dash?

- A. John saw his-red-car rolling down the hill.
- B. The first ten amendments to the Constitution-the Bill of Rights-protects citizens.

- C. We must protect freedom of speech-it is our birthright.
- D. All of the above.

Answer: B

The first ten amendments to the Constitution-the Bill of Rights-protects citizens. Answer B is correct because it uses dashes to insert information parenthetically, but also to emphasize the information. Answer A is not correct because it adds parenthetical information that does not need emphasis. The sentence should read: "John saw his (red) car rolling down the hill"; or "John saw his red car rolling down the hill." Answer C is not correct because it uses a dash to add a second sentence that should stand on its own. To give "it is our birthright" the emphasis it deserves, Answer C should be revised to: "We must protect freedom of speech. It is our birthright." Alternatively, a semicolon could be used.



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