

**FEBRUARY 2019**

**NEVADA BAR EXAM**

**QUESTION NO. 1: ANSWER IN LIGHT BLUE BOOKLET**

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One Friday night, Austin went to Terrific Trips, a hotel and casino in Reno, Nevada, where he gambled and drank alcohol for several hours. After losing too much money, Austin walked back toward his hotel room. The casino floor was very crowded that night due to a concert just ending. Austin kept bumping into people, and at one point, he tripped on a large torn piece of carpet. He fell to the ground and severely twisted his knee. An off-duty casino manager took Austin to an employee break room to question him about the incident.

During questioning, Austin begged to be taken to the hospital at least three different times. Whenever the casino manager did not like Austin's answer, he raised his fist as if he were going to punch Austin. The casino manager finally called an ambulance after an hour of questioning. During Austin's ride to the hospital, the ambulance was rear-ended by a drunk driver. Austin was knocked off the gurney and broke his arm. Once he arrived at the hospital, Austin told the doctor that his arm hurt and he had injured this same knee in the past.

Video surveillance showed that an employee had accidentally torn the casino carpet with a luggage cart about three days prior to Austin's fall. The Reno Municipal Code prohibits more than 500 people on a casino floor at any given time and any violation carries a \$5,000 fine.

**Fully discuss the claims Austin has against Terrific Trips and the defenses that Terrific Trips could assert.**

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**NEVADA BAR EXAM**

**QUESTION NO. 2: ANSWER IN RED BOOKLET**

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Olivia wanted to expand her family room. She provided architectural plans she found online to her contractor, Liz. After reviewing the plans, Liz told Olivia, "Assuming your plans are adequate and you pay me \$35,000 for labor and reimburse me for all materials, I can do the job and it shouldn't cost more than \$50,000." Olivia replied, "Let's do it!" Liz e-mailed Olivia's plans to Steve, the manager of Construction Supply Store ("Store"), asking whether Store could supply all building materials for the work. Store replied by e-mail, "Store will supply what you need. Prices to be agreed upon."

Liz began the expansion, but soon had no time for Olivia's job due to the demands of other jobs. Liz provided the plans to John and asked him to take over. John agreed. John visited Store to order materials, explaining he had taken over Olivia's expansion from Liz. Because Store had never done business with John, Store required John to pay for each order in advance unless Liz guaranteed John's payments. Steve and John called Liz. Liz told them, "I got John into this. I will pay all of Store's bills for Olivia's expansion if John doesn't."

John ordered the necessary materials from Store. Store set them on its truck for delivery to John, but, before delivery, the materials were destroyed. The loss was uninsured. John told Store he would not pay for the destroyed materials and obtained the same materials from another supplier.

Upon completion of the expansion, John delivered a final invoice to Olivia and told her that, because her plans were not adequate, the amount due for all labor and materials for the construction of the room expansion was \$65,000. Olivia objected to the price and claimed her agreement was with Liz, not John.

Store demanded payment from John and Liz for the destroyed materials.

**Fully discuss:**

- 1. Whether any enforceable contracts have been formed? If so, between whom and with what terms?**
- 2. Whether Olivia is liable to John for the amount of the final invoice?**
- 3. Whether Store may recover the amounts due for the destroyed materials? If so, from whom?**

**FEBRUARY 2019**

**NEVADA BAR EXAM**

**QUESTION NO. 3: ANSWER IN DARK GREEN BOOKLET**

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Andy and Chris began dating in 1990. Andy was a valet parking attendant while Chris was working in an entry level management position for a large company in Las Vegas. Six months later, Andy and Chris began living together. They opened a joint checking account, obtained joint credit cards, and pooled their incomes to pay their living expenses. A year later, Chris purchased a home. The deed and mortgage loan were in Chris's name alone, but both contributed their earnings to payment of their expenses, including the mortgage loan.

Andy had a series of low paying jobs over the years as Chris climbed the corporate ladder. As Chris's earnings increased, Andy worked outside the home less, but devoted more time to household chores. In 2005, Andy was in a car accident and received a \$25,000 personal injury settlement they used to remodel the kitchen.

In December of 2009, Andy and Chris validly registered their relationship pursuant to Nevada's Domestic Partnership law. Doing so allowed Andy to obtain health insurance through Chris's employer. Chris's employment also included a pension plan under which the retirement benefits would be based on a formula taking into account the length of employment and salary in the last three years of employment. In 2010, they set up an Individual Retirement Account ("IRA") in Andy's name that now has a value of \$20,000. Due to the disparities in their incomes, Chris's Social Security benefits will be greater than Andy's. In January of 2016, Chris and Andy were lawfully married.

Andy discovered that, in 2018, Chris had incurred tens of thousands of dollars in gambling debts on their joint credit cards. Andy filed a complaint for divorce in Nevada state court. Andy earns less than \$15,000 annually, while Chris earns \$210,000 annually.

**Pursuant to Nevada law, fully discuss the parties' rights and obligations with respect to:**

- 1. The home;**
- 2. The personal injury award used to remodel the kitchen;**
- 3. The pension, IRA and Social Security benefits;**
- 4. The gambling losses; and**
- 5. Alimony.**

**FEBRUARY 2019**

**NEVADA BAR EXAM**

**QUESTION NO. 4: ANSWER IN ORANGE BOOKLET**

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Daniel and Virginia separated and Virginia moved out of their house. One day, Daniel was at home, knowing that Virginia was coming over, and he started drinking a bottle of whiskey. While drinking half the bottle, he was startled when Virginia kicked in his front door and rushed into the house. She charged toward Daniel, yelling and screaming at him. He thought she was going to attack him. He grabbed his gun from under the table and shot her. Later, realizing what he had done, he hid the gun in a laundry basket. Virginia survived the gunshot wound. The police took Daniel into custody.

At the police station, Daniel was read his Miranda warnings. He agreed to waive his rights and spoke with the officers. About an hour into the interrogation, he decided the officers were trying to put words in his mouth. He told the officers, "I don't want to talk to you anymore. Leave me alone." They asked him if he was sure. He told them, "Just take me to my cell." The officers continued to ask Daniel questions about the shooting. He eventually told them he shot Virginia and where to find the gun.

At trial, Daniel was charged with attempted murder with use of a deadly weapon, for shooting Virginia.

**Under Nevada Law, fully discuss:**

- 1. Daniel's possible defenses to the charge of attempted murder with use of a deadly weapon;**
- 2. Whether Daniel's statements to the police were legally obtained; and**
- 3. Whether the gun will be admissible as evidence at trial.**

**FEBRUARY 2019**

**NEVADA BAR EXAM**

**QUESTION NO. 5: ANSWER IN PURPLE BOOKLET**

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Developer desired to build a high-density residential development between two rural residential neighborhoods in Silvertown, Nevada. The Silvertown City Council is scheduled to consider approval of the proposed development at its next meeting.

A few days before the meeting, several Silvertown residents picketed inside City Hall near the planning department office, and on the sidewalks outside City Hall, to raise awareness about the upcoming vote on the proposed development. Silvertown has a city ordinance that prohibits picketing on any property owned or leased by the City. After receiving complaints about the picketing, Silvertown police officers arrested all the picketers.

Another group of Silvertown residents planned to hold a march through the streets of Silvertown to protest the proposed development before the City Council's vote. Silvertown has an ordinance that requires groups of five or more persons to obtain a permit from the City Manager before holding a march, rally or parade. The ordinance requires the City Manager to approve or deny the application based on considerations of public welfare, safety and maintaining order. The permit fee is \$1,000, but may be increased to meet the City's costs of maintaining order in connection with the event.

Because the issue is so controversial, and the police department is experiencing a budget shortfall, the City Manager charged the group \$5,000 for the permit. The group refused to pay the fee and its permit application was denied. The group filed a lawsuit in federal district court challenging the denial of the permit. Advocates for Restricted Growth, a national public interest

group that advocates for limited development, heard about the thwarted march on the news and filed a separate lawsuit in federal district court challenging the permit ordinance.

Ed is employed by Silvertown in the planning department and lives in one of the neighborhoods adjacent to the proposed development. After the City Council voted to approve the development, Ed sent a letter to the editor of the local newspaper harshly criticizing the design of the development and stating, "I think the City Council members are lining their pockets on this deal!" Shortly after Ed's letter was published, he received notice that his employment was terminated immediately based on the City's policy authorizing dismissal of employees for conduct "detrimental to the efficient operation and administration of a city department." Ed filed a lawsuit challenging his termination. In response to Ed's letter to the editor, City Council Member Smith filed a defamation lawsuit against Ed.

**Fully discuss the constitutional issues related to:**

- 1. The picketers;**
- 2. The group seeking a permit to march;**
- 3. Advocates for Restricted Growth;**
- 4. Ed; and**
- 5. City Council Member Smith.**



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NEVADA BAR EXAM

QUESTION NO. 6: ANSWER IN YELLOW BOOKLET

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We Paint, Inc. (“We Paint”), is a Nevada contractor specializing in painting the exterior of commercial office buildings. Its business requires the regular use of scaffolds by its employees. We Paint’s policies and procedures require every employee, as a condition of starting employment, to read the company’s safety manual. To ensure all scaffolds are safe for use, the safety manual requires: (i) employees to keep all scaffolds in good working condition; (ii) employees to bring to the attention of management any scaffolds in need of maintenance or repair; (iii) employees to place all equipment requiring maintenance or repair into a locked storage room labeled, “Repair Storage Room;” and (iv) management to dispose of equipment that cannot be repaired.

One day, Pete, a painter at We Paint, took a scaffold from the Repair Storage Room, which had been left unlocked, and handed it to Bill. Several workers heard Pete tell Bill, “This scaffold is good to go.” Later that day, while painting a building, Bill fell 30 feet when the scaffold’s safety-railing failed. After two days in the hospital, Bill died of his injuries. Pete ultimately was fired.

**Fully discuss whether the following evidence offered by the Estate of Bill is admissible at a civil trial in Nevada state court for the claim of wrongful death against Pete and We Paint:**

1. Testimony from Bill’s widow that at Bill’s funeral, Bill’s manager told her, “Pete was always rushing to get the job done and that’s why Pete was fired.”

2. Testimony from a first responder that Bill was weak from massive blood loss and had whispered while in the ambulance, “I knew this would happen. I don’t want to die because they never lock that door.”
3. We Paint’s incident report that contained a statement from a witness who believed Pete was impaired at the time of the accident because, right after the accident, the witness noticed Pete smelled of alcohol and slurred his words.
4. A police report detailing Pete’s arrest for driving under the influence of intoxicating liquor one week prior to Bill’s fall.
5. A certified copy of a judgment of conviction documenting Pete’s conviction for misdemeanor petit larceny eight years before the accident that caused Bill’s death.

**Fully discuss whether the following evidence offered by Pete is admissible in his defense of the wrongful death suit:**

6. Testimony from Dr. Fox, Bill’s friend and podiatrist, that Bill complained of prolonged dizziness that affected his balance when they played golf the weekend before he died.

**FEBRUARY 2019**

**NEVADA BAR EXAM**

**QUESTION NO. 7: ANSWER IN DARK BLUE BOOKLET**

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On January 1, 2018, Anne validly conveyed her fee interest in Blackacre, a Nevada property, to Bob, Carol and David as “joint tenants with right of survivorship.”

On February 1, 2018, Bob executed a valid contract to convey his interest in Blackacre to Ed at a closing two weeks later. Bob unexpectedly died two days after signing the contract. Ed claimed he is entitled to receive a deed from Bob’s estate at closing.

On March 1, 2018, Carol borrowed money from Lender. Lender promptly recorded a valid deed of trust on Carol’s interest in Blackacre as security for the loan. Carol defaulted on the loan and died prior to Lender’s foreclosure sale in September 2018.

David donated his interest in Blackacre to Foundation on October 1, 2018. Foundation failed to record its deed. David conveyed the same interest to Gina for \$100,000 on October 15, 2018, and Gina promptly recorded her deed. Gina was unaware of David’s conveyance to Foundation. On October 30, 2018, Gina conveyed her interest to Hank for \$150,000. Hank knew about David’s donation to Foundation.

**Fully discuss:**

- 1. The relative rights and obligations as to Blackacre among Bob, Carol and David on January 2, 2018;**

- 2. Which parties held an interest in Blackacre on November 1, 2018, and how each of such interests were obtained; and**
- 3. The relative rights and obligations as to Blackacre among the holders of the interests in Blackacre on November 1, 2018.**

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**NEVADA BAR EXAM**

**QUESTION NO. 8: ANSWER IN LIGHT GREEN BOOKLET**

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Ann is a Nevada licensed attorney. Ann met with Mrs. Smith, a 93 year-old woman, and her daughter Jane to discuss preparing a last will and testament for Mrs. Smith. Jane told Ann that Mrs. Smith wanted to leave all of her estate to Jane and nothing to John, Mrs. Smith's son. Mrs. Smith is silent during the meeting and Ann does not ask her any questions. Mrs. Smith and Jane left Ann's office and Ann began drafting Mrs. Smith's will.

Later that same day, Mrs. Smith returned to Ann's office without Jane. Mrs. Smith wanted to hire Ann to defend her son John. John was being represented by a public defender and in jail awaiting trial on two counts of robbery with the use of a deadly weapon. Mrs. Smith told Ann that John is a good boy and the charges are all a big misunderstanding. Although John wants to accept a plea deal negotiated by his public defender, Mrs. Smith wanted the case to go to a jury trial scheduled to commence in three weeks so her son could be proven innocent.

Ann agreed to represent John and take the case to a jury trial if Mrs. Smith paid Ann \$100,000 for legal fees. Mrs. Smith wrote a check in the amount of \$100,000 and Ann deposited the check into her general operating account. In addition, Mrs. Smith told Ann she wanted her son and daughter to share in her estate equally, and she wanted to leave a \$20,000 gift to Ann in her will in appreciation of Ann's great legal advice.

After Mrs. Smith left Ann's office, Ann revised the draft will as instructed by Mrs. Smith. Ann sent a copy of the draft will to Jane and Mrs. Smith.

**Fully discuss all issues raised by Ann's conduct under the Nevada Rules of Professional Conduct.**