

# FINAL EXAMINATION

## EVIDENCE

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SPRING 2006

### INSTRUCTIONS

1. You have a total of **three (3) hours** to complete this examination.
2. This is a **closed book** exam. No outside materials are allowed and you may not discuss the exam with anyone else.
3. There are TWO PARTS to this examination, MULTIPLE CHOICE and ESSAY.  
  
**PART I**, the multiple-choice segment, contains 20 questions and is worth 1/3 of your grade. Indicate the best answer on the ParSCORE test form provided.  
  
**PART II**, the essay segment, is worth 2/3 of your grade, with each essay answer worth 1/3 of the total grade. You should budget your time to devote one hour and not more to each question.
4. Please be sure to allow some of the above suggested times to think, organize and outline your answers before you begin writing your essays. Use the blue books provided. Write only on the right hand side of the page (skipping a page each time) and double-space your work. Please write legibly.
5. Write your exam number on your exam envelope, at the top of this page and every page of questions thereafter, the ParSCORE test form, and each blue book you use. **Do not** use your name, student ID number or Social Security number on any exam materials.
6. At the conclusion of the exam, return all exam materials to the exam envelope and submit it to the proctor. Do not seal the envelope. Students who do not return all exam materials at the end of the exam may not be graded.

**Good luck!**

## **Part Two**

### **Essay**

**(One Hour)**

Lucy and Gloria, law partners for many years in a highly profitable firm, are now engaged in a bitter lawsuit to dissolve their partnership. Gloria claims Lucy took large sums of money from the firm and that Lucy's husband George, the firm's accountant, covered it up. Lucy counter sues, denies she took any money from the firm and claims she should be awarded most of the firm's assets since Gloria has been senile for years and has not done any work at the firm.

In the trial, Gloria's evidence as Plaintiff is:

1. George is called as a witness and testifies that:
  - a. Lucy deposited large amounts of cash into their joint family checking account, which he never recorded in the office account books and never reported as part of the law firm's income when he filed the firm's tax returns.
  - b. Lucy told him Gloria is a naive fool because she works so hard for the firm but never pays attention to how much money the firm makes each year.
2. Gloria testifies and says she can't remember how many clients she had last year. Her lawyer hands her a set of ledgers titled Law Firm Client Lists. Gloria testifies, These are the records the firm kept. The ledgers are offered into evidence.
3. The law firm receptionist testifies that one morning as two clients were leaving the office, she heard one of them say, Did you see those stacks of hundred dollar bills she had on her credenza?

On cross examination of the these witnesses by Lucy's lawyer:

1. George was asked:
  - a. You have been having sex with the law firm receptionist for years, haven't you?
  - b. You were convicted seven years ago of felony assault on your bartender, weren't you?
2. Gloria was asked:

- a. Isn't it true that you never passed the bar exam and have been practicing without a license all these years.

Gloria denies this.

3. The receptionist was asked:
  - a. Don't you consult a physician for problems with your hearing? Lucy's lawyer objects to this as privileged and asks the judge to instruct the jury to disregard it.

Lucy's evidence as Defendant is:

1. Dr. Dre, Gloria's psychiatrist, is asked if he has been treating Gloria for senile dementia for ten years. The doctor refuses to answer.
2. The director of the State Bar of California testifies that he has searched the records of the State Bar and could not find any record of Gloria having passed the Bar exam and being admitted to practice law.
3. Arnold, the receptionist's former boyfriend testifies that the receptionist told him just before the trial that she had never heard any discussions of cash ever being present in the law firm's offices.
4. Sidney, desk clerk at a hotel near the law firm, testifies that George and the receptionist regularly spent afternoons in one of the hotel's rooms.

Analyze and discuss all issues raised by these facts. State how the issues should be resolved and why.

## **END OF PART TWO**

### **Part Three**

#### **Essay**

**(One Hour)**

Cheney, a high federal official, is indicted for bribery and conspiracy along with his co-defendant Rove and tried in federal court in Washington D.C. The charges are that Cheney and Rove received cash amounts from oil companies to help the companies manipulate fraudulent energy crises. The cash was paid by leaving the money in a hollowed out tree on the 18<sup>th</sup> hole of a Washington Golf course where Cheney would pick it up. Analyze and answer this question only in regard to the prosecution of Cheney:

The prosecution evidence against Cheney is:

1. Testimony of Rummy, who says:
  - a. He frequently called Cheney's office and was told by Cheney's secretary that Cheney was busy playing 18 holes of golf on the D.C. golf course.
  - b. Rove told him that he and Cheney needed his help to arrange for several CEOs of oil companies to obtain government clearance to serve on a government energy task force.
2. Testimony of Cheney's former political aid who worked for Cheney when Cheney was a Wyoming congressman. He says that he helped Cheney take bribes from Wyoming oil, lumber and mining companies during the six years Cheney was in congress and that Cheney would regularly pick up the payments in cash from a hollowed out tree on the 18th hole of a Cheyenne, Wyoming golf course.
3. Testimony of Professor Genius that he has developed a new technique for obtaining DNA from mold spores. He says he removed DNA from mold spores growing inside a hollowed out tree trunk on the D.C. golf course and it matches a sample of Cheney's DNA.

In defense:

1. Cheney testifies and denies any guilt. His lawyer asks him to identify a brochure. Cheney says it is a brochure of the D.C. golf course that says The best nine hole golf course in America. Cheney's lawyer offers the brochure into evidence and asks the court to take judicial notice that the D. C. golf course is nine holes. On cross-examination, Cheney is asked if he was convicted of the misdemeanor of forging a check for less than \$25 when he was a college student. Cheney denies this.
2. Senator Foghorn is called as a witness and he testifies that he was told by Delay, a former congressman that he (Delay) was a talented impersonator. Delay said that he had been making himself up and dressing like Cheney and convinced the energy CEOs that he was Cheney and the oil companies were actually paying the bribes to Delay.
3. Dubya is called as a witness and testifies that he has known Cheney since he was a child. He testifies that his father always liked Cheney. He also testifies that Cheney goes to church every Sunday and even helps with the collection. He says that in his opinion, Cheney is a swell guy doing a heck of a job.

In rebuttal, the prosecution then offers the following evidence:

4. Testimony of Condi that Cheney actually steals the money from the church collection plate when he helps out.
5. Certified copy of a misdemeanor conviction of Cheney from the state of Wyoming for the crime of forging a check in an amount less than \$25.

6. Cheney is convicted and the defense files a motion to set aside the jury's verdict on the ground of misconduct. They call the jury foreman to testify at a hearing on the motion that the other eleven jurors all said they believed the evidence didn't show Cheney's guilt but they wanted to convict him anyway because they didn't like him. The jury foreman is prepared to testify that he also voted to convict because the other jurors threatened him if he did not.

Analyze and discuss all issues raised by these facts. State how these issues should be resolved and why.

**END OF EXAM**