

## FINAL EXAMINATION

### EVIDENCE

Peter Keane

SPRING 2008

### INSTRUCTIONS:

1. You have three (3) hours to complete this examination.
2. This is a **closed** book exam. No outside materials are allowed.
3. The exam contains two parts:

**Part One** consists of twenty (20) multiple-choice questions. The multiple-choice questions are worth 1/3 of the total grade.

**Part Two** consists of two (2) essay questions. Each of the 2 essay questions is worth 1/3 of the total grade. So you should budget your time to devote one hour and not more to each question.

4. Write your exam number on your exam envelope. Put your correct class section and student exam # at the top of this page, each page of questions, each blue book, and the "ParSCORE Test Form." Do not use your name, student ID number or Social Security Number on any exam materials.
5. At the conclusion of the exam, return all materials, including the blue books, ParSCORE answer sheet, scratch paper, and this exam packet to the 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 have their exams graded.

**GOOD LUCK!**

### **Part Two: Essay Questions**

**Recommend Time: 1 hour**

#### Essay Question 1

Heather, owner of a health club and a well-known personal trainer, is on trial for illegally providing steroids to her Olympic athlete clients.

The prosecution evidence is:

- (1). Testimony of a federal FDA investigator that one of Heather's employee's told him that Heather had him pick up packages containing vials of liquids, each week, from Acme Chemical Labs.
- (2). Testimony of an Olympic official that Katy, one of Heather's clients, collapsed in great pain during a qualifying track run. He says that as Katy was being attended to, she said, "Those damn steroids from my gym."
- (3). Testimony of Katy's former coach, Marvin, who said that when Katy fired him several years ago, she said, "I'm hiring Heather who can juice up my body for me."
- (4). A transcript of a hearing held the previous year before the State Licensing Commission to revoke Heather's license as a trainer. At the hearing, Sylvester, an Olympic wrestler, now dead, testified that Heather gave him steroids in 2004.

Heather's evidence is:

- (1). Testimony of a publishing company executive that the director of the FDA has received a \$500,000 advance to write a book on steroids in sports.
- (2) Testimony of Floyd, brother of Sylvester the wrestler, that before he died, Sylvester told him that he had used steroids in 2002 but not in 2004.
- (3). Testimony of the business partner of coach Marvin (3 above), that Marvin told him prior to Katy's firing him, "If Katy finds out I lied to her about coaching Olympic champions, she will dump me."
- (4). A letter Heather says she received after Katy became her client. It says, "Take Katy away from me and I will do everything I can to frame you."

**Discuss all issues raised by these facts. State how these issues should be resolved and why.**

### **Essay Question 2**

Molly believes her daughter Gloria is an unfit mother to take care of Gloria's 3- year old son Jake. Molly files a petition to be awarded custody of her grandson.

Molly's evidence is:

- (1). Testimony of a social worker who says Gloria told her she needed to stop using crack cocaine because it affected her ability to take care of Jake.

(2). Testimony of Gloria's ex-husband Alphonse, who says that their marriage broke up because Gloria told him she spent everything on crack and that he caught her numerous times having sex with other men.

(3). Testimony of Jake, who doesn't know what an oath is. Jake says, "I don't like it when Mommy smokes."

(4). Testimony of Ivan, Jake's pediatrician, who says that he has developed techniques of urine analysis which can determine if a child under the age of 4 was born to a crack addicted mother. He says he tested Jake's urine and, in his opinion, Jake's mother was a crack addict at the time of his birth.

Gloria's evidence is:

(1). Testimony of the Director of Medical Licensing that the agency's records show that pediatrician Ivan is now under a 3 year license suspension for having sex with patients.

(2). A certified copy of a conviction of Molly for misdemeanor forgery in Los Angeles 6 years ago.

(3). Testimony of Alexander, former husband of Molly, father of Gloria and Grandfather of Jake. Alexander says that his ex - wife Molly is a well- known liar, but his daughter Gloria, in his opinion, is a truthful person and a fine mother.

Gloria also requests the court to give a jury instruction in accordance with the State Family Code that says, "You must find that Gloria is a fit mother unless you have been persuaded by clear and convincing evidence that she is not." Molly objects to this instruction.

**Discuss all issues raised by these facts. State how these issues should be resolved and why.**

**END OF EXAM**