

1. Almost all examinees knew that the suit could be filed in in each of the three counties identified in the question.
2. Almost all examinees knew the a motion to transfer was the proper pleading and the due order of pleading rule, but more than a few said special appearance was the proper pleading.
3. Most examinees identified 5 matters that could be considered at a pretrial conference.
4. Almost all examinees identified 5 *forms* of discovery, but many identified 5 *types* of discovery instead of 5 forms (i.e. medical records, bank statements, etc.).
5. Almost all examinees knew that filing a motion to compel or setting the objection for hearing was the proper course. Many examinees did not address how the court should rule.
6. Most examinees only gave one method for obtaining Kate's medical records rather than all three (request for disclosure, request for production or direct subpoena to healthcare providers).
7. Most examinees knew that contributory/comparative negligence is an affirmative defense that must be pled, but many incorrectly answered that it must be raised in the initial pleading.
8. Most examinees correctly identified one or two permitted locations for the corporate representative deposition, but many failed to mention that it could be taken in the county of suit. A substantial number of examinees incorrectly concluded that it could be taken anywhere within 150 miles of service (this rule only applies to nonresidents or transient persons).
9. Almost all examinees knew that the attorney client privileged applied to conversations between Speedy's lawyer and Speedy's employees.
10. Most examinees knew that Kate must make a written demand/request for jury trial but many did not know that it must be made at least 30 days before trial and many failed to mention that she must also pay the jury fee.
11. Almost all examinees knew that a motion for continuance was the proper pleading, but many examinees failed to include the requirement of showing materiality of the testimony.
12. Many examinees knew that a motion to compel independent medical examination

was the proper pleading, but few knew when it had to be filed (30 days before end of discovery period) and few mentioned the good cause requirement.

13. Almost all examinees knew that Kate's attorney should make a Batson challenge, but many failed to state that it must be made before the jury is empaneled.
14. A substantial number of examinees failed to observe that the objection was not timely asserted and instead focused on probative v. prejudicial analysis.
15. Most examinees knew that the witness would likely be permitted to testify but many failed to discuss the unfair prejudice or surprise element.
16. Almost all examinees knew that the statement would come in as an admission by party opponent, excited utterance or present sense impression. Many examinees failed to make the observation that an admission is not hearsay under the rules whereas the other two are exceptions to the hearsay rule.
17. Most examinees knew that Speedy must object to the expert's qualifications before the witness testified, but few examinees discussed examining the witness on voir dire if the objection was overruled.
18. Most examinees responded only that Speedy must object to the omission and get a ruling, but few examinees addressed the requirement that Speedy must submit a substantially correct instruction to the Court for ruling before the charge is read to the jury.
19. A substantial number of examinees failed to observe that the objection was not timely because it was not made before the Court discharged the jury.
20. Almost all examinees that a motion for new trial for jury misconduct was the proper procedural step.