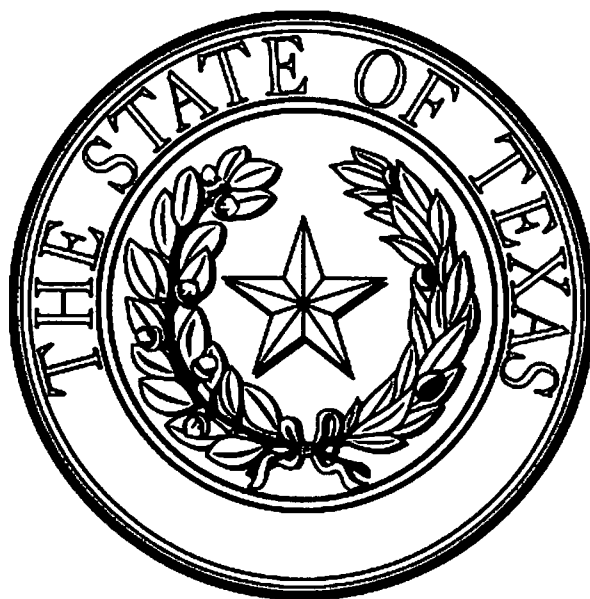


**Examinee  
Number**

**Bar  
Code**

**Thursday Morning  
February 25, 2016  
Essay Questions 1 - 6**



# **TEXAS BAR EXAMINATION**

**Copyright © 2016 Texas Board of Law Examiners**

**This material or any portion hereof may not be reprinted without the advance written permission of the Texas Board of Law Examiners.**

**If writing, answer Question 1 in the gold answer book.  
If laptop, answer in the screen marked Question 1.**

**Question 1**

Ned and Margaret married in 2006. At the time of their marriage, Margaret had two adult children from a previous marriage, Allen and Susan. Before Margaret's marriage to Ned, Margaret had deeded Allen the family ranch. Margaret said, "I am giving you your entire inheritance now." Susan overheard this comment. At the time of the gift, Margaret's estate consisted of the ranch she inherited from her family, valued at \$500,000, and shares of corporate stock she inherited from her family, valued at \$500,000.

In 2010, Margaret executed a valid, self-proved will that contained the following provisions:

I hereby appoint my husband, Ned, Independent Executor of my estate.

I devise all of my corporate stock to my daughter, Susan.

I devise and bequeath all of the rest, residue, and remainder of my personal and real property to my husband, Ned.

I have already provided for my son, Allen.

In 2012, Ned and Margaret had a child, Katie. In 2013, Ned and Margaret divorced. Margaret died in 2014, leaving real estate, her shares of corporate stock that had increased in value to \$2,000,000, and other personal property. She is survived by Ned, Allen, Susan, and Katie.

**(1) What rights, if any, do the following persons have in Margaret's estate:**

**(a) Ned?**

**(b) Allen?**

**(c) Susan?**

**(d) Katie?**

**Explain your answers fully.**

**If writing, answer Question 2 in the gray answer book.  
If laptop, answer in the screen marked Question 2.**

**Question 2**

Sarah, a lifelong Texas resident, was a widow and had two daughters, Claire and Ellen. In 2009, Sarah executed a will leaving her entire estate in equal shares to her two daughters. In 2010, Sarah suffered a severe stroke that left her physically and mentally impaired. Claire, who was unemployed, moved in with Sarah to provide care. In exchange, Sarah supported Claire financially. Ellen lived out of state, and visited twice a year. Other than the visits from Ellen, Sarah had no other interaction with anyone besides Claire.

In 2014, using a form she found on an internet website, Claire prepared a new will for Sarah ("New Will") that left all of Sarah's estate to Claire, except for \$2,000 left to Ellen. New Will included a no-contest clause that stated, "If any beneficiary contests this will or any of its provisions, she shall forfeit all gifts hereunder and shall take no part of my estate."

New Will, which had a self-proving affidavit, was executed in Sarah's home, before two witnesses and a notary who had never before met Sarah. Claire was present when Sarah signed New Will and the self-proving affidavit. Claire informed the witnesses and notary beforehand that Sarah was weak and wanted the will signing to go as quickly as possible. Sarah did not speak during the will signing. The witnesses quickly signed New Will and the self-proving affidavit without hearing them read out loud or reading them.

After the signing, one witness lagged behind to wish Sarah well. At that time, Sarah told the witness that she was secretly a "princess," and she was leaving her "royal kingdom" to her only "heir to the throne."

At Sarah's funeral, the same witness told Ellen about Sarah's strange statements at the signing of New Will. Ellen also found evidence that Claire had prepared New Will.

- (1) Based on the facts provided, what ground(s), if any, might Ellen assert to challenge New Will, what would she have to prove for each ground, and what is the probable outcome on each ground? Explain fully.**
- (2) Would Ellen's filing of a challenge result in a forfeiture of Sarah's bequest to her? Explain fully.**

**If writing, answer Question 3 in the blue answer book.  
If laptop, answer in the screen marked Question 3.**

**Question 3**

Jack and Debbie were married 10 years and then divorced. It was Jack's first marriage and Debbie's second. Debbie had a son, Tim, from her previous marriage. Tim's father's parental rights were terminated before Debbie married Jack.

When Jack and Debbie divorced, Jack and Debbie were appointed joint managing conservators of Tim. One year after his divorce from Debbie, Jack married Shelly and filed a petition ("the Petition") to adopt Tim, which Shelly joined.

At the hearing on the Petition, Debbie contested the adoption and alleged that Jack, a Navy Seal, would not be a suitable parent because he is a sniper in a Seal Team that is often deployed overseas on dangerous missions. Jack did not appear at the hearing because he was deployed on such a mission. In Jack's absence, Shelly provided a letter from Tim to Jack in which Tim, who was 12 years old, consented to be adopted by Jack. Tim, however, did not testify at the hearing. After the hearing, the trial court found that all requirements for adoption had been met and granted the Petition.

- (1) Did Jack have standing to adopt Tim? Explain fully.**
- (2) Did the trial court err in granting the adoption of Tim over Debbie's objection? Explain fully.**
- (3) Did the trial court err in granting the adoption without hearing live testimony from Tim that he consented to the adoption? Explain fully.**
- (4) Did the trial court err in granting the adoption even though Jack did not appear at the hearing? Explain fully.**

**If writing, answer Question 4 in the pink answer book.  
If laptop, answer in the screen marked Question 4.**

**Question 4**

On December 1, 2010, Joe Smith and Mary Hall began living together in San Antonio, Bexar County, Texas. They maintained the household and did things ordinarily done by a husband and wife. When visiting with friends, they often referred to one another as “the love of my life” and “my soul mate.” On occasion, they also introduced each other as Mr. and Mrs. Smith at social events. When Mary went to the doctor for checkups, she listed Joe as the person to contact in the event of emergency. Joe also named Mary as his spouse and sole beneficiary on his life insurance application.

In December 2014, Joe gave Mary an engagement ring. They discussed plans to have a formal wedding in April 2015. On March 1, 2015, they had a falling out over money, and Joe moved out and went to live with a friend in Austin, Travis County, Texas.

On July 1, 2015, Mary won \$50 million in the Powerball-Texas Lottery. When Joe found out, he filed suit for divorce in Travis County, Texas, alleging that he and Mary had been informally married since December 1, 2010, and that the lottery proceeds were community property. Mary filed a motion to transfer venue to Bexar County and denied any marriage ever existed.

- (1) Should the Travis County Court grant Mary’s motion to transfer venue to Bexar County? Explain fully.**
  
- (2) What elements must Joe prove to establish that he and Mary were informally married, and can he prove each element? Explain fully.**

**If writing, answer Question 5 in the dark green answer book.  
If laptop, answer in the screen marked Question 5.**

**Question 5**

Julie and John, a married couple, reside in a home on their homestead property within the State of Texas (the "Property"). Located outside the boundary of the nearest municipality and its extra-territorial jurisdiction, the Property consists of three adjacent unplatted parcels, which together total 150 acres. Julie's on-line clothes shopping habit led her to incur substantial debt on her personal credit card with CreditCo. Julie failed to pay her credit card debt to CreditCo, which ultimately resulted in CreditCo obtaining a judgment against Julie. Additionally, John failed to pay the Property's property taxes to the local taxing authority for 2 years and the taxing authority ultimately placed a lien on the Property for the unpaid taxes. The Property is encumbered by:

- (i) a purchase money lien (deed of trust);
- (ii) an abstract of judgment filed by CreditCo in connection with Julie's personal credit card debt;
- (iii) a lien for property taxes, and;
- (iv) a lien claim for an unpaid invoice from a livestock feed store.

- (1) Which of the liens on the Property are valid under the Texas Property Code and which are not? Explain fully.**
- (2) What type of homestead is the Property? Explain fully.**

**If writing, answer Question 6 in the tan answer book.  
If laptop, answer in the screen marked Question 6.**

**Question 6**

Jack owns Whiteacre. Jack sold Nick a  $1/16^{\text{th}}$  non-participating royalty interest in Whiteacre for \$20,000 in cash. On March 1, 2010, Jack and Oilco entered into an oil and gas lease wherein Jack leased Whiteacre to Oilco for “5 years, and as long thereafter as oil and gas is produced in paying quantities” in return for a  $1/8^{\text{th}}$  royalty interest, bonus, and delay rentals (the “Lease”). The Lease also included a dry hole clause, a shut-in-royalty clause, and an operations clause.

For the first 4 years of the Lease, Oilco conducted no operations on Whiteacre but timely paid Jack delay rentals each year. On February 3, 2015, Oilco began drilling operations. On March 1, 2015, Oilco sent a delay rental payment to Jack.

- (1) What is the Lease’s primary term? Explain fully.**
- (2) What is the Lease’s secondary term? Explain fully.**
- (3) Is Nick entitled to  $1/16^{\text{th}}$  of the delay rental received by Jack from Oilco for Whiteacre? Explain fully.**
- (4) Should Jack accept Oilco’s March 1, 2015 delay rental payment? Explain fully.**

**This concludes the morning portion of the Texas Essay Questions.**

**TEXAS BAR EXAM  
SECURITY POLICY STATEMENT AND HONOR PLEDGE**

Anything not listed in the General Instructions as a Required Item or Permitted Item is a Prohibited Item. **Cell phones are Prohibited Items. If you bring a cell phone or any other Prohibited Item into the Secure Area, you may be immediately disqualified from the exam.** We may confiscate Prohibited Items from you, and retain them as necessary for inspection. We will report violations to the Board, who could nullify your exam results, conduct a hearing into your character and fitness, and/or take other actions.

The following acts also violate the Security Policy: obtaining, seeking to obtain, providing, or seeking to provide access to exam questions before the start of the exam; copying or receiving any information from any examinee during any testing session; communicating with anyone other than Board staff during any testing session; writing after time is called; taking exam materials outside of the exam room; failing to follow written and oral instructions from the Board; and any other act that might compromise the security or integrity of the exam. Any such misconduct may result in a hearing before the Board, the outcome of which could include nullification of your exam score or a finding that you lack the present good moral character required for admission to the bar.

Write the following pledge in your usual handwriting on the lines below. Do not sign your name to the pledge – enter your Examinee Number. If you cannot honestly write the pledge, contact a proctor or other Board staff immediately.

***I have read and understand the Texas Bar Exam Security Policy. I have not given or received aid on the exam, or otherwise violated the Security Policy. If I am aware of anyone else having done so, I have already reported this to the Board of Law Examiners staff.***

---

---

---

---

---

---

---

---

---

---

---

Examinee # \_\_\_\_\_