

QUESTION NUMBER 1

Driver was driving in Smalltown, Ohio, when he negligently turned the wrong way onto a one-way street. He collided with a car driven by Pam, who suffered neck and back injuries.

The momentum of the collision carried Driver's car over the curb and into a tree in Homeowner's front yard. The force of the car's impact knocked over the tree, which fell through the roof of the Homeowner's garage.

Pam's injuries required medical treatment and physical therapy and caused her to miss three weeks of work. Pam's medical bills were covered by her medical insurance provider, and she had accrued enough sick leave with her employer that she did not lose any wages during the three weeks that she was unable to go to work. By the end of the three weeks, Pam had recovered fully from the injuries she sustained in the collision. Two months later, however, Pam died of an unrelated cause.

At the time of the collision, Homeowner had stored in the garage 150 watercolors she had painted for sale at an upcoming annual craft fair. Based on her experience in selling similar paintings at prior annual craft fairs, the paintings would probably have sold for a total of \$6,000. The paintings were not damaged when the tree fell through the roof. However, Homeowner knew that severe thunderstorms were predicted for later that day, and, although she thought about moving the paintings inside the house to protect them from rain damage, she was too busy to find the time to move them. Several hours later, the predicted thunderstorms came and drenched everything in the garage, irreparably damaging all of the paintings.

Pam's estate and Homeowner sued Driver for negligence. Driver admitted that he was negligent. However, Driver defended against the damage claims asserted by Pam's estate on the grounds that (i) Pam's estate had no right to sue him for damages, and (ii) Pam suffered no actual losses. Driver defended against Homeowner's damage claims on the ground that the damage to the paintings resulted from Homeowner's own actions.

1. What are the components of damages Pam's estate should seek, and how should the court rule on each of Driver's defenses? Explain fully.
2. What are the components of damages Homeowner should seek, how is each component measured, and how should the court rule on Driver's defense? Explain fully.

QUESTION NUMBER 2

Seller owned two parcels of real property in Boothe, Ohio. Parcel 1 was improved with a two-story office building. Parcel 2 was an unimproved lot.

Parcel 1: Seller and Bob entered into a written agreement by which Bob agreed to buy and Seller agreed to sell Parcel 1 for \$100,000. The agreement provided that, on the date of closing, Seller was required to convey "marketable title" and that the building was required to be in its "current condition".

After the agreement was signed and a month before the closing on Parcel 1, a blizzard hit Boothe, Ohio. Snow accumulation exceeded ten inches on the roof of the office building. Fearful that the roof would collapse, Seller attempted to brace the roof with a steel beam. As Seller placed the beam, he misjudged the positioning, and the roof collapsed, causing \$45,000 in damage.

The title company examining the title records on Parcel 1 advised Bob that there was a \$16,000 lien on the property for plumbing work performed for the person who had sold the parcel to Seller five years earlier. Seller insisted that, when he bought the property, the prior owner paid the plumbing lien. However, he cannot find the documents evidencing this fact. The plumbing company is out of business and no other person is available to verify Seller's representation of payment.

On the day set for the closing on Parcel 1, the roof repairs had not been made and the \$16,000 plumbing lien remained of record. Seller refused to pay for the roof repairs, asserting that he is not responsible because the damage occurred after the purchase and sale agreement was signed. Seller also refused to furnish a bond against the plumbing lien, maintaining the position that it has been extinguished by payment. Bob refused to tender the purchase price.

Seller has sued Bob for specific performance of their agreement.

Parcel 2: Seller orally agreed to sell Parcel 2 to Tom for \$50,000. Tom intended to install playground equipment on Parcel 2 and to dedicate it as a neighborhood park. The impending sale received wide notoriety in the local newspapers and television news, featuring interviews with Seller and Tom, in which they both confirmed the transaction and Seller expressed particular pride that he was selling at a reduced price because of the civic use to which Tom was putting the property.

About a month before the closing, Tom purchased \$10,000 worth of used playground equipment, spent \$5,000 to repair the equipment, and, with Seller's knowledge, installed the equipment on the lot.

A few days later, Seller told Tom he had received an attractive offer for Parcel 2 from a buyer who wanted to build a supermarket on it and that he had decided not to sell Parcel 2 to Tom. Tom protested and stated, "A deal is a deal. I will see you at the closing."

Tom appeared at the time and place appointed for the closing and tendered a certified check payable to Seller in the amount of \$50,000. Seller failed to appear. Tom has sued Seller for specific performance of their agreement.

Who should prevail in each suit? Explain fully.

QUESTION NUMBER 3

John, a resident of Ohio, dedicated a spare bedroom in his house as an office from which he ran his small business. He borrowed \$5,000 from his friend, Ned, to purchase a new copy machine for use in the business. John signed and delivered a promissory note and security agreement granting Ned a security interest in the copy machine and in the “proceeds” of any sale of the copy machine. Ned then filed in the Ohio Secretary of State’s Office a financing statement that properly described the collateral, including the “proceeds” of any sale of the machine. Although Ned neglected to put John’s address on the financing statement, the Secretary of State’s Office accepted it and filed it. John later sold the machine for \$5,000 and deposited the \$5,000 in a savings account at Bank.

Still later, John borrowed \$3,000 from Ann, his aunt, for general expenses and gave Ann a signed note and security agreement pledging the savings account at Bank as collateral. There were no other documents or agreements reflecting or affirming Ann’s security interest. Ann properly filled out and filed in the Secretary of State’s Office a financing statement describing the savings account. John never made any other deposits or withdrawals from this savings account after he deposited the \$5,000 from the sale of the copy machine.

John borrowed \$10,000 from Urie, his uncle, to buy a new car. He signed and delivered to Urie a promissory note that contained language granting to Urie a security interest in the car as collateral for the loan. To secure the note, Urie took possession of the certificate of title for the car. The certificate showed John as the legal owner and named no other party as holder of any interest in the car. John later sold the car to Dealer, telling Dealer that the original certificate of title had been lost. Dealer obtained a duplicate certificate showing Dealer as legal owner.

John purchased a new laptop computer on credit for \$2,000 from Computer Store. The salesperson did not ask John whether he intended to use the computer for personal use or in his business, and John did not indicate either way. He signed a security agreement in his own name granting Computer Store a security interest in the computer. Computer Store did not file a financing statement. Subsequently, John borrowed from Bank \$10,000 as operating capital for his business and signed a security agreement granting Bank a security interest in “all furniture, equipment, and supplies used in John’s home business.” Bank properly filed a financing statement with the Secretary of State’s Office.

John has defaulted on all the foregoing debts, and the parties with competing interests in the collateral are seeking to obtain possession of the collateral.

1. As between Ned and Ann, who has the superior right to possession of the money in the savings account? Explain fully.
2. As between Urie and Dealer, who has the superior right to possession of the car? Explain fully.
3. As between Computer Store and Bank, which has the superior right to possession of the laptop computer? Explain fully.

Formatted: Centered, Space Before:
12 pt, After: 12 pt, Line spacing:
single

QUESTION NUMBER 4

Deleted: OBX – 7/05
BUSINESS ASSOCIATIONS
(AGENCY)
MS. COULTER

Formatted: Font: Not Bold, All caps

Formatted: Font: Not Bold, All caps

Formatted: Font: Not Bold, All caps

Emp was employed by Boss as an office bookkeeper. Emp had no actual, apparent, implied, or inherent authority to contract or in any way act for Boss. During a two-week period when Boss was away on vacation, Emp made the following arrangements without Boss's knowledge or approval.

Emp arranged for Coffee Co. to deliver freshly brewed coffee to the office each morning in cups with Coffee Co.'s logo prominently displayed on them.

Emp advanced Mary, a receptionist in the office, \$500 out of petty cash to help her over a rough period when she was unable to pay her rent. Mary agreed to pay the loan back at \$50 per week.

On the day before Boss returned from vacation, Emp signed a short-term lease with Boss's landlord, Landlord, to rent for \$100 a month some space in the office basement to store an overflow of records that Emp had no other place to store. This arrangement, which set the rent at \$100 a month, was to take effect in 30 days.

For the first three weeks after Boss returned from vacation, without asking who was paying for it, Boss regularly drank the coffee delivered by Coffee Co. each morning. On one occasion, Boss commented to the Coffee Co. delivery person that Boss particularly enjoyed the hazelnut blend. However, when Boss received Coffee Co.'s first invoice, Boss refused to pay it, claiming she had never authorized Emp to enter into the arrangement.

In each of the three weeks after Boss returned, Mary handed Boss a check for \$50, each time saying how grateful she was that Emp had made the \$500 loan. Boss accepted the checks and deposited them in the petty cash account. When Mary delivered the fourth check, Boss told her that Emp had no authority to lend her the money and demanded that Mary pay the remaining balance immediately.

A week before the basement storage lease was to take effect, Landlord dropped off a handwritten note telling Boss that the space was no longer available for use as storage. When Emp explained the transaction to Boss, Boss agreed that the basement storage lease was a good deal. Boss wrote, signed, and delivered a letter to Landlord stating that Boss expected Landlord to comply with the terms of the lease. Landlord refused.

Is Boss contractually bound by the arrangements Emp made with Coffee Co. and Mary, and is Landlord bound by the lease signed by Emp? Explain fully.

QUESTION NUMBER 5

Father was driving the family car, with Mother (his wife) and Child (their minor child), riding as passengers, when the car was struck by a large truck owned by Truck Company. Operator, the driver of the truck, was employed by Truck Company and was working in the course and scope of his employment at the time of the collision. The car Father was driving was manufactured by Autos, Inc. The collision caused the car to explode into flames.

Father escaped injury, Mother was seriously injured, and Child was killed. The ensuing fire from the collision destroyed a building owned by ABC Company. Following the accident, Operator fled the country and his whereabouts are unknown. Insurer paid significant portions of the medical expenses of Mother and has a contractual right of subrogation.

Mother, as the sole plaintiff, filed a complaint against Truck Company and Autos, Inc. in an Ohio court of common pleas seeking to recover for her personal injuries. She alleged negligence against Truck Company. She alleged negligence and product liability against Autos, Inc.

Truck Company and Autos, Inc. timely filed motions to dismiss for failure to join necessary parties. Truck Company's motion is based on Mother's failure to join Operator. The motion by Autos, Inc. is based on Mother's failure to join Father, the estate of Child, ABC Company, and Insurer, asserting correctly that all of them can be conveniently served.

ABC Company has moved to intervene in the action.

1. How should the Court rule on Truck Company's motion to dismiss? Explain fully.
2. Irrespective of whether Father, Child's estate, ABC, and Insurer are **indispensable** parties, how should the court rule on Autos, Inc.'s motion to dismiss? Explain fully.
3. How should the court rule on ABC Company's motion to intervene? Explain fully.

QUESTION NUMBER 6

Owner, the owner of a widget manufacturing plant in Cleveland, Ohio, was getting ready to retire. He advertised the sale of the manufacturing plant, including the land on which it is located, all the equipment, and the inventory.

Bill, a widget manufacturer wishing to expand his smaller plant across town in Cleveland, contracted in writing to buy Owner's land and building for \$250,000. The agreement was conditioned upon the land and building being appraised at \$250,000 or more. Bill hired an appraiser who appraised the land and building at \$300,000.

In a separate contract, Bill contracted in writing with Owner to buy three of Owner's widget-making machines. The contract separately priced each machine at \$5,000. The machines were particularly well-suited to Bill's production operations. Although two of the machines were readily available on the market (one for \$5,000 and the other for \$7,000), the third machine was the only one of its kind and unavailable on the market.

In another separate written contract, Bill agreed to buy Owner's inventory of widget flanges (a flange is a component part of a widget) for \$6,000. The written agreement provided that, in the event the flanges turned out to be defective, Bill's remedy would be limited to return of the goods and repayment of the purchase price and precluded recovery of any consequential damages. Bill immediately paid for and took possession of the inventory of flanges and incorporated them into widgets he was manufacturing for a particular customer at his plant across town.

In yet another separate written contract, Bill and Owner agreed that Owner would consult exclusively for Bill as a plant supervisor for one year at a salary of \$50,000, during which time Owner would train Bill's plant supervisor on the unique, secret manufacturing processes that Owner had developed and which had given him a competitive advantage.

About a week after the above transactions were entered into, the following events occurred:

1. Regarding the contract for the sale of the land and building: Sallie, without knowledge of Owner's contract with Bill, offered Owner \$350,000 for the land and building. Owner offered Bill \$50,000 to "cancel" their contract. When Bill refused, Owner said, "Well, I'm sorry, but I have an offer of \$350,000, so I'm not going to sell the land and building to you."
2. Regarding the contract for the sale of the three machines: Owner's son expressed an interest in acquiring the machines. Owner told Bill, "My son wants those machines, so I've decided to give them to him. I'm canceling my sale to you."
3. Regarding the widget flanges: When the widgets into which Bill had incorporated the flanges were tested before being shipped to the customer, it turned out that the flanges were defective. It cost Bill \$10,000 to remove and replace the flanges, and his customer threatened to sue him for delay damages because Bill was not able to deliver timely.

4. Regarding Owner's agreement to consult for Bill for a year: Owner received an offer from E-Widget, Inc., a competitor of Bill's, to pay Owner \$75,000 to consult exclusively for E-Widget to train its plant manager on Owner's unique manufacturing processes. E-Widget was unaware of the existing consulting contract between Owner and Bill. Owner told Bill, "I've gotten a better offer to consult for E-Widget, so I won't be able to consult for you."

What legal and equitable remedies might Bill seek on each of the contracts with Owner? What defenses, if any, might Owner assert? What is the likely outcome on each? Explain fully.

QUESTION NUMBER 7

In 2004, Bank acquired six promissory notes bearing the signature of John Smith (“Smith”) in the transactions described below. Except as stated below, Bank had no notice of any defenses or irregularities in the notes. By their terms, all of the notes came due in 2005. Bank is now attempting to obtain payment on the notes.

Note One: Smith signed and delivered this note payable “to the order of Ace Finance” for \$1,000. Ace Finance immediately endorsed the note and sold it to Bank for \$900. Smith refused to pay it.

Note Two: Smith signed and delivered this note payable “to the order of Ace Finance.” The note had the amount originally typed in as \$1,000, and it had been obviously altered so that it now showed as \$10,000. Ace Finance endorsed the note “without recourse” and sold it to Bank for \$9,000. Smith refused to pay this note, asserting that he did not authorize the alteration and that Ace Finance owes him \$1,000 for work he performed for Ace Finance.

Note Three: This is a retail installment note in the amount of \$20,000 made by Smith. It was payable “to the order of Dealer” in payment of the purchase price for an automobile for Smith’s personal use. Dealer immediately endorsed the note and sold it to Bank for \$18,000. Dealer never delivered the automobile to Smith and, therefore, Smith refused to pay the note.

Note Four: This note is for \$5,000 and payable “to the order of CBC Company,” which acquired the note from Smith. There was neither a due date nor a date of execution on the note. The interest rate was shown as “minus 1% per annum,” and Smith’s signature was illegible. CBC Company assured Bank that it was Smith’s signature. Bank purchased the note for \$3,000 after CBC Company endorsed it. Smith refused to pay the note, asserting that he had not signed it.

Note Five: Smith gave this note to Jones to secure a loan Jones had made to him. The note was payable “to the order of Mary Jones” in the amount of \$2,000. Jones endorsed the note and gave it to Bank together with a letter explaining to Bank that, although she had no legal obligation to pay the debt, she was giving the note to Bank to pay a \$2,000 debt that her brother owed Bank. Bank accepted the note and applied it toward Jones’s brother’s debt. Smith refused to pay the note, claiming that Jones owed him money (more than \$2,000) for services Smith had provided to Jones.

Note Six: After Smith signed Notes One through Five, a court declared him to be legally incompetent to manage his affairs and appointed a legal guardian for Smith. Without the guardian’s knowledge, Smith signed a note for \$2,000 in payment for a large-screen TV. The note was payable “to the order of Entertainment Company.” Unaware of the court order of incompetence, Entertainment Company endorsed and sold the note to Bank for \$1,500. Bank also took the note without any knowledge of the adjudication of incompetency. Smith’s guardian now refuses to pay the note, asserting Smith’s incompetence.

What rights, if any, does Bank have against Smith and the transferor of each of the notes to collect the amounts due on each of the notes? Explain fully.

QUESTION NUMBER 8

Client, age 21, suffered physical injuries in an automobile accident and retained Attorney, a general practitioner, to represent him in a personal injury action. Client told Attorney that, at the current time, he was “cash poor” and could not afford to pay any fee. Client also explained that he was the beneficiary of a trust that would begin paying Client a substantial income when he turned 25.

Attorney told Client that she estimated the case to be worth about \$40,000, agreed to undertake the representation, and filed an appropriate action. Attorney and Client entered into a written contingency fee agreement providing that Attorney’s fee would be one-third of any recovery and that Attorney would advance all costs of litigation, to be repaid out of any settlement or final judgment in the case.

Client also told Attorney that his wife had kicked him out of the house and he had no place to live. Attorney offered to let Client stay in a rental unit Attorney owned, on the understanding that, when they received a settlement, Attorney would deduct from it \$400 for every month Client occupied the unit. Client expressly agreed to this arrangement

Attorney told Client that, in the meantime, he should obtain debt management advice and gave him the name of a financial advisor to contact at Debt Co. It turns out that Attorney had a longstanding relationship with Debt Co. and that she received a \$1,000 finder’s fee for every person she referred there for counseling.

Under the terms of a power of appointment in the trust of which Client is an income beneficiary, Client had named his wife as remainder beneficiary. Client told Attorney that he now wanted to change it so that the remainder would go to an institution devoted to the care of the elderly and infirm. Attorney suggested that Client make The Nursing Home the trust’s remainder beneficiary. Attorney explained that she could vouch for The Nursing Home as a worthy recipient because Attorney’s sister was the majority shareholder and chief executive officer. Client expressly agreed and executed the documents that Attorney drafted making ~~The~~ Nursing Home the new remainder beneficiary.

Deleted: The

Client’s health insurer, Health Co., asserted a lien for reimbursement of \$3,000 in medical expenses paid as a result of Client’s injuries in the auto accident. Attorney negotiated a deal with Health Co. by which Health Co.’s lien would be reduced to and guaranteed at \$2,000. As compensation for making that deal, Attorney received \$500 from Health Co. Later, Attorney told Client about the deal, including the \$500 he had received from Health Co. Client did not object.

Eight months later, Attorney herself was having financial difficulties, in part because the rental unit she was letting Client live in was not producing income. The insurance company for the defendant in the pending lawsuit offered to settle the case for \$12,000. Although Client was reluctant because of the initial \$40,000 estimate, Attorney told Client that there were uncertainties in the case and persuaded him to accept the \$12,000. Attorney received the settlement check and sent Client a check for \$2,000, which is \$12,000 minus \$4,000 for

Attorney's 1/3 fee; \$3,200 for eight months' rent; \$800 for costs incurred; and \$2,000 for reimbursement to Health Co.

What ethical violations, if any, did Attorney commit by each of the actions described above? Explain fully.

QUESTION NUMBER 9

Anytown, Ohio, owns and operates a residential rest home for older citizens. The facility includes a large multi-purpose room used by the residents for meals and occasional recreational programs. When the room is not in use by the residents, Anytown allows local community groups to use it, subject to the following ordinance:

ANYTOWN ORDINANCE NUMBER ONE. The multi-purpose room at

the Anytown Rest Home may be used by community non-profit organizations for educational programs, provided that:

1. Any such educational program must be open to the general public;
2. No such program may include profane language that offends the values of the community;
3. No such program may be of a partisan political nature, such that it advocates the election or defeat of a candidate for public office;
4. Any audio or visual materials to be used in such educational program, including but not limited to books, pamphlets or films, must be submitted in advance to the Anytown city manager for approval.

Civic organizations such as the Anytown Historical Society and fraternal organizations periodically use the multi-purpose room for educational programs that typically include showing films of historical events in the development of Anytown and its government, including the history of many contested mayoral elections. Those civic organizations have always complied with the requirements of Ordinance One.

Earlier this year, Citizens for Democracy (CFD), a non-profit organization not aligned with any political party, asked the city manager for permission to use the multi-purpose room for an educational program about city government in Anytown. As part of its program, CFD planned to show a controversial “documentary” film about the career of the incumbent Anytown mayor, who is up for re-election next year. The documentary included interviews with a number of Anytown citizens who expressed their distaste for the mayor in candid terms, sometimes using mild profanity.

After reviewing the film, the city manager informed CFD it would not be allowed to use the multi-purpose room because the film violated subsections 2 and 3 of Ordinance Number One, as it was politically partisan in nature, profane, and offensive.

The next morning, in protest of the city manager’s decision, members of CFD gathered at 8 a.m. on the public sidewalk in front of Anytown Rest Home and began parading back and forth with signs reading “Down with Anytown’s Censorship.” At 8:30 a.m. the police arrested the protestors. They were charged with violating the city ordinance on peaceful picketing, which states:

ANYTOWN ORDINANCE NUMBER TWO. Citizens may engage in peaceful picketing of any public buildings in Anytown, provided that:

1. Anyone wishing to picket in front of a public building must obtain a permit from the city manager at least 24 hours in advance so that proper security arrangements may be made;
2. Picketing in front of the Anytown Rest Home is permitted only between the hours of 9 a.m. to 5 p.m. in order to preserve a quiet environment during resting hours for the home's elderly residents.

CFD has sued Anytown in federal court, taking the position that Anytown Ordinances One and Two violate the free speech rights of its members under the First Amendment of the U.S. Constitution. Anytown takes the position that both ordinances are entirely constitutional.

What arguments should CFD and Anytown make in support of their respective positions as to the constitutionality of Ordinance Number One and Ordinance Number Two, and how should the court rule on each argument? Explain fully.

QUESTION NUMBER 10

Defendant, a physician specializing in internal medicine and general surgery, performed surgery on Plaintiff. During the surgical procedure, Defendant severed a nerve in Plaintiff's back, causing her to lose use of her left arm and hand. As a result of the loss of use of her arm and hand, Plaintiff lost her job doing secretarial work for her husband and is unable to care for her child as she was able to do before the surgery.

Plaintiff filed suit against Defendant in an Ohio court of common pleas for the injuries she sustained. She alleged that the injuries were caused by Defendant's medical malpractice.

As the case proceeded to trial, Plaintiff proposed the following witness list:

1. Plaintiff's 7-year-old daughter (Daughter), to testify about Plaintiff's loss of ability to care for her as Plaintiff had cared for her prior to the surgery;
2. Plaintiff's husband (Husband), to testify as Plaintiff's former employer that he fired Plaintiff from her secretarial job after her surgery due to her inability to type and use the computer;
3. The nurse who was assisting Defendant during the surgery (Nurse), to testify that the severing of Plaintiff's nerve during the surgery would cause Plaintiff to lose the use of her left arm and hand and, in addition, to testify that the severing of the nerve during the surgery was a breach of the proper standard of medical care by Defendant; and
4. Dr. X, who is licensed by the Nevada Medical Board in internal medicine and surgery and teaches in that field full time at the accredited Nevada University. Dr. X will testify that, having studied the available information regarding the surgery performed by Defendant, Dr. X is of the opinion that Defendant breached the proper standard of care and proximately caused the injuries complained of by Plaintiff.

The attorney for Defendant has objected to each of the witnesses proffered by Plaintiff, claiming that each of them is incompetent to testify under the Ohio Rules of Evidence.

How should the Court rule on Defendant's objections regarding each of the four proposed witnesses? Discuss each witness separately, and fully explain your answer.

QUESTION NUMBER 11

Suspect robbed Bank and fled with a suitcase full of cash. Teller, a Bank employee who had handed over the cash at gunpoint, was able to give the investigating police officer, Officer, a detailed description of Suspect and the brown suitcase he was carrying.

Teller's next door neighbor Ned heard about the robbery in a radio news flash. Ned then saw someone carrying a brown suitcase furtively enter Teller's house through the back door. In less than a minute, Ned saw the same person exit Teller's house without the suitcase.

Ned, suspicious because he knew Teller worked at Bank, entered Teller's house, saw the suitcase on the kitchen floor, and opened it. He found it full of cash. Lying on top of the cash was a handwritten note that read: "Teller: Hand over the cash. We can share it later." Ned also saw a number of documents that looked like bank ledgers on Teller's kitchen table. Ned got in touch with Officer and told Officer what he had seen and found. Ned insisted that Officer not disclose that Ned had reported this.

Officer immediately went to the courthouse to obtain a warrant to search Teller's house. Officer presented Magistrate with an application for a search warrant for Teller's home and a sworn affidavit, which described the robbery and, in addition, specifically stated the following:

- Teller was the only Bank employee who was able to describe Suspect with any specificity; thus, I conclude that this is evidence that Teller and Suspect are acquainted.
- I have received reliable information from a credible person, who is Teller's neighbor, that a furtive stranger entered Teller's house carrying a brown suitcase, and that suspicious items can be found in Teller's kitchen. These include documents that appear to be Bank ledgers, a brown suitcase full of cash, and a handwritten note stating: "Teller, hand over the cash. We can share it later."
- I believe these suspicious Bank ledgers will implicate Teller as an accomplice.

Based on this, Magistrate issued a warrant for Officer to search "such part of Teller's residence that Officer believes will reveal any and all documents and things Officer has probable cause to believe implicate Teller as an accomplice to the robbery of Bank."

Officer executed the warrant and searched all the living areas of Teller's home but found nothing incriminating. He then climbed into the attic where, in plain view on a table, he found a diary containing detailed plans for the robbery and two airline tickets, one for Teller and the other for Suspect, to Brazil for departure the next day. Officer seized the diary and the airline tickets and arrested Teller.

In the subsequent criminal proceeding, Teller's attorney filed a motion to suppress the diary and the airline tickets. The motion cited the Fourth Amendment to the U.S. Constitution and asserted the following grounds: (1) that Ned's entry into Teller's home and the police use of the information acquired from Ned violated Teller's rights against unlawful search and seizure;

(2) that the search warrant was issued without probable cause; and (3) that the warrant was defective on its face.

How would the Court be likely to rule on each ground of the motion? Explain fully.

QUESTION NUMBER 12

Adam, Ben, and Carl, Ohio residents, were brothers. They died in an avalanche while skiing. It is not known whether they all died instantly or, if not, in what order. Their parents are deceased and they had one other sibling, Sister, who survived them. None had a will.

Adam was survived by a spouse and three children. One of his children is illegitimate and the other two were adopted.

Ben was divorced and had never remarried. Ben's ex-wife, who survived Ben, has two children, both boys. The older boy, whom Ben never legally adopted, is from her prior marriage. The younger boy is Ben's natural child.

Carl left no spouse or children surviving.

Which of the survivors named above will inherit from the estates of Adam, Ben, and Carl; which of them will not; and, of those who will inherit, what share will each take? Explain fully.