



CONNECTICUT BAR EXAMINATION
26 February 2013

QUESTION #1

Ames is a hypothetical state in the United States.

December 2nd was a snowy day in Ames. On that day, a truck with a snowplow on its front, belonging to the Ames Department of Transportation, skidded through a stop sign and struck the right rear corner of a car driven by Monty, spinning it around. The law of Ames forbids failing to stop at a stop sign.

The only obvious result of the accident was damage to the right rear bumper of Monty's car, which he drove home after the accident. Later that evening, Monty became sick and, as a result, drove the car little for the next five (5) days. It remained parked in a lot by his apartment. On December 7th, Monty was driving his car when its engine boiled over. He left the car where it was and on Monday, December 9th drove it to Chuck's Auto Service (Chuck) after refilling the radiator. Chuck reported that the cause of the problem was that the engine mounts, which are metal brackets that hold the engine in place, had been bent causing the engine to tip forward so that the engine fan had destroyed the radiator. Chuck stated that it would take a substantial impact to cause this sort of bending and the accident of December 2nd is consistent with such damage. Monty denied knowing any other major hit on the car after December 2nd.

Monty's car had been in a prior accident in mid-November and suffered damage to its right front corner. After that accident, Monty had driven the car some distance and subsequently had a substantial engine overhaul at Chuck's. At that time, there was no indication of any problem with the engine mounts.

1. Monty has filed a claim with Ames for the repair costs for the car engine, and Ames has asked you to evaluate his claim. Analyze fully.
2. Would your analysis change if additional evidence strongly suggested that the November accident made Monty's car more vulnerable to having its engine mounts bent if it were in a subsequent accident? Explain fully.



CONNECTICUT BAR EXAMINATION
26 February 2013

QUESTION #2

Paul needed some cash so he asked Sully, a moneylender, to loan him some. "What can you trade me?" Sully asked. "Tell you what," Paul replied, "Mack owes me \$500 for a brake job and I'll swap you that. That's all I got right now. Persuaded, Sully agreed, in a writing executed by him and Paul, to give Paul \$300 "for the \$500 that Mack owes Paul for the brake job." Knowing that Paul was the wily sort, Sully also got Paul to agree that he would not turn around and transfer the \$500 that Mack owed him to someone else. Having secured that commitment, Sully handed Paul the \$300. Afterward, however, Paul convinced Henrietta, in a writing executed by Paul and Henrietta, to also pay him \$300 "for the \$500 that Mack owes Paul for the brake job." His pockets weighted down with proceeds, Paul skipped town.

Mack, you can assume, is good for the \$500. Analyze fully who will be entitled to it.



CONNECTICUT BAR EXAMINATION
26 February 2013

QUESTION #3

Harry has come to you for advice. Harry's wife, Mildred, was killed instantly last month when she missed a stop sign. The following day, Mildred's daughter, Dawn, died of injuries sustained in the accident. Harry, Mildred's son (Sam), and Dawn's only child (Ginny, age 2) survived. Mildred had divorced Willy, Sam and Dawn's father, twenty years ago and married Harry four years later. They had no marital property agreement. Sam and Dawn were Mildred's only children.

Mildred left a valid will, executed ten years ago, giving her piano to Harry and the rest of her property "divided equally between Dawn and Sam if each survives me." Mildred was also the settlor of a well-funded, revocable living trust that she had created at the same time. Mildred had retained a life estate, and at her death the entire trust property passed to Harry. Also found with Mildred's papers was a note in her handwriting:

"After I die, I want \$20,000 to go to Ginny to help with her college. Mildred"

The note is written across the face of an otherwise blank, printed receipt form (with lines and columns and a heading reading "Mille's Mint Shoppe").

Advise Harry on the extent of his rights to Mildred's property. Analyze fully.



CONNECTICUT BAR EXAMINATION
26 February 2013

QUESTION #4

Darnell is a partner in a law firm with 300 lawyers. ABC Corporation (ABC) retains him to help it buy a commercial building. At the time, Darnell is not aware that one of his partners, Barbara, already represents a different client, XYZ Corporation (XYZ), which is interested in buying the same building. After accepting the representation, Darnell learns that Barbara represents XYZ, a competing purchaser, when discussing the sale price with the seller's lawyer, Taylor.

Because Darnell hopes to garner more business from ABC, he decides not to notify Barbara of ABC's interest in the building. Surreptitiously entering Barbara's office, he reads her files concerning the building's sale. He is pleased to learn that XYZ has failed to obtain loans on several earlier purchases. Darnell telephones the seller's president to report this information.

After the commercial building is sold to ABC, Barbara learns of Darnell's conduct and reports him to the law firm's ethics committee.

As a member of that committee, write a memorandum discussing fully the ethics problems for Darnell, Barbara and the law firm.



CONNECTICUT BAR EXAMINATION
26 February 2013

QUESTION #5

While on duty, Officer learned that there had been a stabbing homicide in the same vicinity approximately ten hours earlier. He was driving his marked cruiser when he saw a green Ford Mustang speeding. The driver promptly obeyed Officer's signal to pull over and, as Officer approached the car, the driver, Rice, lowered all his windows. Officer immediately saw a knife with a five inch sheath on Rice's backseat, easily within reaching distance. Rice explained the knife was used when fishing with his grandfather, but Officer saw no other fishing equipment in the car. Officer retrieved the knife and placed it on the roof of the car, out of Rice's reach. Officer asked if there were any other weapons in the vehicle, and Rice responded "no." Officer removed Rice from the car and handcuffed him, but informed him that he was not under arrest. A search of the passenger compartment of the car revealed a "butterfly knife" under the front passenger-side floor mat.

Prior to trial for carrying a concealed deadly weapon, Rice moves to suppress all the evidence seized after the stop of his vehicle. How should the court rule? Analyze fully.



CONNECTICUT BAR EXAMINATION
26 February 2013

QUESTION #6

Frank was the owner of an exercise gym that catered to young professionals. Frank was having trouble with one of the treadmills in his gym, so he took it to Second Wind Used Treadmill Sales and Repair (Second Wind) to have it fixed. The problem with the treadmill was a horrible squeaking sound that became apparent only when one of Frank's customers stayed on the treadmill for more than half an hour. Frank had tried oiling the treadmill, but that did not seem to fix the problem.

The day after Frank left his treadmill at Second Wind for repairs, Martha came into Second Wind with the hope of purchasing a used commercial-grade treadmill. Martha had serious back problems which were aggravated by her running long distances on hard surfaces. Martha explained this problem to Rick, the owner of Second Wind, and told him that she needed a treadmill that had an extremely shock-absorbent surface that was "back-friendly" to the user.

Rick listened intently and told Martha that he had just the treadmill for her. Unbeknownst to Rick, the treadmill he had in mind was Frank's treadmill. It turned out that yesterday one of Rick's new employees had put Frank's treadmill with the treadmills to be sold rather than the treadmills to be repaired. In any event, Rick was confident that this treadmill did indeed have an extremely shock-absorbent surface that would be "back-friendly" for its user.

Rick showed Martha the treadmill, and offered to let her inspect it. Martha said, "That's okay, Rick, I trust your judgment on this one. After all, you've been in this business a long time." Rick replied, "That's good. I'll sell you the treadmill for \$4,000 and I hereby exclude all implied warranties." Martha, who knew that brand-new treadmills like this one could cost as much as \$8,000, said, "It's a deal." She paid Rick with her debit card and had the treadmill delivered to her home and installed in her basement the next day.

A couple of weeks later, Martha was having a number of problems with the treadmill. First, she had come to realize after about a week that although the treadmill seemed to have a lot of cushion in it, the material on the treadmill's surface was still not shock-absorbent enough to prevent her back from acting up. Second, when Martha used the treadmill for periods longer than half an hour, the treadmill would eventually emit an obnoxious squeak. And third, she had been receiving threatening phone calls from Frank, who insisted that the treadmill was his and that he would sue for its recovery from Martha if necessary.

Discuss fully whether Rick has made and breached any warranties to Martha. Do not discuss Martha's potential remedies for any such breaches, but only whether Rick has made and breached any warranties to Martha.



CONNECTICUT BAR EXAMINATION
26 February 2013

QUESTION #7
From the Multistate Essay Examination

In 2008, a landlord and a tenant entered into a 10-year written lease, commencing September 1, 2008, for the exclusive use of a commercial building at a monthly rent of \$2,500. The lease contained a covenant of quiet enjoyment but no other covenants or promises on the part of the landlord.

When the landlord and tenant negotiated the lease, the tenant asked the landlord if the building had an air-conditioning system. The landlord answered, "Yes, it does." The tenant responded, "Great! I will be using the building to manufacture a product that will be irreparably damaged if the temperature during manufacture exceeds 81 degrees for more than six consecutive hours."

On April 15, 2012, the building's air-conditioning system malfunctioned, causing the building temperature to rise above 81 degrees for three hours. The tenant immediately telephoned the landlord about this malfunction. The tenant left a message in which he explained what had happened and asked the landlord, "What are you going to do about it?" The landlord did not respond to the tenant's message.

On May 15, 2012, the air-conditioning system again malfunctioned. This time, the malfunction caused the building temperature to rise above 81 degrees for six hours. The tenant telephoned the landlord and left a message describing the malfunction. As before, the landlord did not respond.

On August 24, 2012, the air-conditioning system malfunctioned again, causing the temperature to rise above 81 degrees for 10 hours. Again, the tenant promptly telephoned the landlord. The landlord answered the phone, and the tenant begged her to fix the system. The landlord refused. The tenant then attempted to fix the system himself, but he failed. As a result of the air-conditioning malfunction, products worth \$150,000 were destroyed.

The next day, the tenant wrote the following letter to the landlord:

I've had enough. I told you about the air-conditioning problem twice before yesterday's disaster, and you failed to correct it. I will vacate the building by the end of the month and will bring you the keys when I leave.

The tenant vacated the building on August 31, 2012, and returned the keys to the landlord that day. At that time, there were six years remaining on the lease.

On September 1, 2012, the landlord returned the keys to the tenant with a note that said, "I repeat, the air-conditioning is not my problem. You have leased the building, and you should fix it." The tenant promptly sent the keys back to the landlord with a letter that said, "I have terminated the lease, and I will not be returning to the building or making further rent payments." After receiving the keys and letter, the landlord put the keys into her desk. To date,

she has neither responded to the tenant's letter nor taken steps to lease the building to another tenant.

On November 1, 2012, two months after the tenant vacated the property, the landlord sued the tenant, claiming that she is entitled to the remaining unpaid rent (\$180,000) from September 1 for the balance of the lease term (reduced to present value) or, if not that, then damages for the tenant's wrongful termination.

Is the landlord correct? Explain.

© These materials are copyrighted by NCBE and are being reprinted with the permission of NCBE.
For personal use only.
May not be reproduced or distributed in any way.



**CONNECTICUT BAR EXAMINATION
26 February 2013**

**QUESTION #8
From the Multistate Essay Examination**

On January 2, a boat builder and a sailor entered into a contract pursuant to which the builder was to sell to the sailor a boat to be specially manufactured for the sailor by the builder. The contract price was \$100,000. The written contract, signed by both parties, stated that the builder would tender the boat to the sailor on December 15, at which time payment in full would be due.

On October 15, the builder's workers went on strike and there were no available replacements.

On October 31, the builder's workers were still on strike, and no work was being done on the boat. The sailor read a news report about the strike and immediately sent a letter to the builder stating, "I am very concerned that my boat will not be completed by December 15. I insist that you provide me with assurance that you will perform in accordance with the contract." The builder received the letter on the next day, November 1.

On November 25, the builder responded to the letter, stating, "I'm sorry about the strike, but it is really out of my hands. I hope we settle it soon so that we can get back to work."

Nothing further happened until December 3, when the builder called the sailor and said, "My workers are back, and I have two crews working overtime to finish your boat. Your boat is task one. Don't worry; we'll deliver your boat by December 15th." The sailor immediately replied, "I don't trust you. As far as I'm concerned, our contract is over. I am going to buy my boat from a shipyard." Two days later, the sailor entered into a contract with a competing manufacturer to buy a boat similar to the boat that was the subject of the contract with the builder.

The builder finished the boat on time and tendered it to the sailor on December 15. The sailor reminded the builder about the December 3 conversation in which the sailor had announced that "our contract is over," and refused to take the boat and pay for it.

The builder has sued the sailor for breach of contract.

1. What was the legal effect of the sailor's October 31 letter to the builder? Explain.
2. What was the legal effect of the builder's November 25 response to the sailor's October 31 letter? Explain.

3. What was the legal effect of the sailor's refusal to take and pay for the boat on December 15? Explain.

© These materials are copyrighted by NCBE and are being reprinted with the permission of NCBE.
For personal use only.
May not be reproduced or distributed in any way.



CONNECTICUT BAR EXAMINATION
26 February 2013

QUESTION #9
From the Multistate Essay Examination

AutoCo is a privately owned corporation that manufactures automobiles. Ten years ago, AutoCo purchased a five-square-mile parcel of unincorporated land in a remote region of the state and built a large automobile assembly plant on the land. To attract workers to the remote location of the plant, AutoCo built apartment buildings and houses on the land and leased them to its employees. AutoCo owns and operates a commercial district with shops and streets open to the general public. AutoCo named the area Oakwood and provides security, fire protection, and sanitation services for Oakwood's residents. AutoCo also built, operates, and fully funds the only school in the region, which it makes available free of charge to the children of its employees.

A family recently moved to Oakwood. The father and mother work in AutoCo's plant, rent an apartment from AutoCo, and have enrolled their 10-year-old son in Oakwood's school. Every morning, the students are required to recite the Pledge of Allegiance while standing and saluting an American flag. With the approval of his parents, the son has politely but insistently refused to recite the Pledge and salute the flag at the school on the grounds that doing so violates his own political beliefs and the political beliefs of his family. As a result of his refusal to say the Pledge, the son has been expelled from the school.

To protest the school's actions, the father walked into the commercial district of Oakwood. While standing on a street corner, he handed out leaflets that contained a short essay critical of the school's Pledge of Allegiance policy. Some of the passersby who took the leaflets dropped them to the ground. An AutoCo security guard saw the litter, told the father that Oakwood's anti-litter rule prohibits leaflet distribution that results in littering, and directed him to cease distribution of the leaflets and leave the commercial district. When the father did not leave and continued to distribute the leaflets, the security guard called the state police, which sent officers who arrested the father for trespass.

1. Did the son's expulsion from the school violate the First Amendment as applied through the Fourteenth Amendment? Explain.
2. Did the father's arrest violate the First Amendment as applied through the Fourteenth Amendment? Explain.



CONNECTICUT BAR EXAMINATION
26 February 2013

QUESTION #10
From the Multistate Essay Examination

Mother and Son, who are both adults, are citizens and residents of State A. Mother owned an expensive luxury car valued in excess of \$100,000. Son borrowed Mother's car to drive to a store in State A. As Son approached a traffic light that had just turned yellow, he carefully braked and brought the car to a complete stop. Driver, who was following immediately behind him, failed to stop and rear-ended Mother's car, which was damaged beyond repair. Son was seriously injured. Driver is a citizen of State B.

Son sued Driver in the United States District Court for the District of State A, alleging that she was negligent in the operation of her vehicle. Son sought damages in excess of \$75,000 for his personal injuries, exclusive of costs and interest. In her answer, Driver alleged that Son was contributorily negligent in the operation of Mother's car. She further alleged that the brake lights on Mother's car were burned out and that Mother's negligent failure to properly maintain the car was a contributing cause of the accident.

Following a trial on the merits in Son's case against Driver, the jury answered the following special interrogatories:

Do you find that Driver was negligent in the operation of her vehicle? Yes.

Do you find that Son was negligent in the operation of Mother's car? No.

Do you find that Mother negligently failed to ensure that the brake lights on her car were in proper working order? Yes.

The judge then entered a judgment in favor of Son against Driver. Driver did not appeal.

Two months later, Mother sued Driver in the United States District Court for the District of State A, alleging that Driver's negligence in the operation of her vehicle destroyed Mother's luxury car. Mother sought damages in excess of \$75,000, exclusive of costs and interest.

State A follows the same preclusion principles that federal courts follow in federal-question cases.

1. Is Mother's claim against Driver barred by the judgment in *Son v. Driver*? Explain.
2. Does the jury's conclusion in *Son v. Driver* that Mother had negligently failed to maintain the brake lights on her car preclude Mother from litigating that issue in her subsequent suit against Driver? Explain.

3. Does the jury's conclusion in *Son v. Driver* that Driver was negligent preclude Driver from litigating that issue in the *Mother v. Driver* lawsuit? Explain.

© These materials are copyrighted by NCBE and are being reprinted with the permission of NCBE.
For personal use only.
May not be reproduced or distributed in any way.



CONNECTICUT BAR EXAMINATION
26 February 2013

QUESTION #11
From the Multistate Essay Examination

Over 5,000 individuals in the United States operate hot-air balloon businesses. A hot-air balloon has four key components: the balloon that holds the heated air, the basket that houses the riders, the propane burner that heats the air in the balloon, and the propane storage tanks.

The owner of a hot-air balloon business recently notified several basket and burner manufacturers that she or her agent might be contacting them to purchase baskets or burners. The owner did not specifically name any person as her agent. Basket and burner manufacturers regularly receive such notices from hot-air balloon operators. Such notices typically include no restrictions on the types of baskets or burners agents might purchase for their principals.

The owner then retained an agent to acquire baskets, burners, and fuel tanks from various manufacturers. The owner authorized the agent to buy only (a) baskets made of woven wicker (not aluminum), (b) burners that use a unique "whisper technology" (so as not to scare livestock when the balloon sails over farmland), and (c) propane fuel tanks.

The agent then entered into three transactions with manufacturers, all of whom had no prior dealings with either the owner or the agent.

(1) The agent and a large manufacturer of both wicker and aluminum baskets signed a contract for the purchase of four aluminum baskets for a total cost of \$60,000. The agent never told the manufacturer that he represented the owner or any other principal. The contract listed the agent as the buyer and listed the owner's address as the delivery address but did not indicate that the address was that of the owner rather than the agent. When the baskets were delivered to the owner, she learned for the first time that the agent had contracted to buy aluminum, not wicker, baskets. The owner immediately rejected the baskets and returned them to the manufacturer. Neither the owner nor the agent has paid the basket manufacturer for them.

(2) The agent contacted a burner manufacturer and told him that the agent represented a well-known hot-air balloon operator who wanted to purchase burners. The agent did not disclose the owner's name. The agent and the burner manufacturer signed a contract for the purchase of four burners that did not have "whisper technology" for a total price of \$70,000. The burner contract, like the basket contract, listed the owner's address for delivery but did not disclose whose address it was. The burners were delivered to the owner's business, and the owner discovered that the agent had ordered the wrong kind of burners. The owner rejected the burners and returned them to the manufacturer. Neither the owner nor the agent has paid the burner manufacturer for the burners.

(3) The agent contracted with a solar cell manufacturer to make three cells advertised as "strong enough to power all your ballooning needs." The agent did not tell the manufacturer that he was acting on behalf of any other person. One week after the cells were delivered to the agent, he took them to the owner, who installed them and discovered that she could save a lot of money

using solar cells instead of propane to power her balloons. The owner decided to keep the solar cells, but she has not paid the manufacturer for them.

Assume that the rejection of the baskets and the burners and the failure to pay for the solar cells constitute breach of the relevant contracts.

1. Is the owner liable to the basket manufacturer for breach of the contract for the aluminum baskets? Is the agent liable? Explain.
2. Is the owner liable to the burner manufacturer for breach of the contract for the burners? Is the agent liable? Explain.
3. Is the owner liable to the solar cell manufacturer for breach of the contract for the solar cells? Is the agent liable? Explain. (Do not address liability based upon restitution or unjust enrichment.)

© These materials are copyrighted by NCBE and are being reprinted with the permission of NCBE.
For personal use only.
May not be reproduced or distributed in any way.



**CONNECTICUT BAR EXAMINATION
6 February 2013**

QUESTION #12

From the Multistate Essay Examination

A woman who owns a motorized scooter brought her scooter to a mechanic for routine maintenance service. As part of the maintenance service, the mechanic inspected the braking system on the scooter. As soon as the mechanic finished inspecting and servicing the scooter, he sent the woman a text message to her cell phone that read, "Just finished your service. When you pick up your scooter, you need to schedule a follow-up brake repair. We'll order the parts."

The woman read the mechanic's text message and returned the next day to pick up her scooter. As the woman was wheeling her scooter out of the shop, she saw the mechanic working nearby and asked, "Is my scooter safe to ride for a while?" The mechanic responded by giving her a thumbs-up. The woman waved and rode away on the scooter.

One week later, while the woman was riding her scooter, a pedestrian stepped off the curb into a crosswalk and the woman collided with him, causing the pedestrian severe injuries. The woman had not had the scooter's brakes repaired before the accident.

The pedestrian has sued the woman for damages for his injuries resulting from the accident. The pedestrian has alleged that (1) the woman lost control of the scooter due to its defective brakes, (2) the woman knew that the brakes needed repair, and (3) it was negligent for the woman to ride the scooter knowing that its brakes needed to be repaired.

The woman claims that the brakes on the scooter worked perfectly and that the accident happened because the pedestrian stepped into the crosswalk without looking and the woman had no time to stop. The woman, the pedestrian, and the mechanic will testify at the upcoming trial.

The pedestrian has proffered an authenticated copy of the mechanic's text message to the woman.

The woman plans to testify that she asked the mechanic, "Is my scooter safe to ride for a while?" and that he gave her a thumbs-up in response.

The evidence rules in this jurisdiction are identical to the Federal Rules of Evidence.

Analyze whether each of these items of evidence is relevant and admissible at trial:

1. The authenticated copy of the mechanic's text message;

2. The woman's testimony that she asked the mechanic, "Is my scooter safe to ride for a while?"; and
3. The woman's testimony describing the mechanic's thumbs-up.

© These materials are copyrighted by NCBE and are being reprinted with the permission of NCBE.
For personal use only.
May not be reproduced or distributed in any way.