

# October 2019

## ESSAY QUESTIONS



# California First-Year Law Students' Examination

**Answer all 4 questions.**

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little or no credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete, but you should not volunteer information or discuss legal doctrines that are not pertinent to the solution of the problem.

You should answer according to legal theories and principles of general application.

## QUESTION 1

Julie Smith hired Debra Daniels to take care of her grandmother, Nan. Smith informed Daniels that during her daily visits to Nan, she was to prepare Nan's prescription medications by placing the correct number of pills in a dispenser. With the pills placed in the dispenser, Nan could take the correct dosage of evening medications after Daniels left for the day. Smith told Daniels that this task was very important because Nan had previously gotten confused, taken the wrong number of pills, and almost died.

After several months, Nan told Daniels that she enjoyed her company and was relieved that everything was working out because she feared that if it didn't, her granddaughter would place her in a nursing home.

Neither Smith nor Nan knew that Daniels was a drug addict who regularly needed money to buy drugs. One day, Daniels went to work at Nan's after ingesting a large quantity of narcotics. Nan did not notice that Daniels was under the influence of drugs and, during the day, Daniels secretly removed jewelry from the home and sold it for drugs.

On another day, Daniels told Nan that she had to quit and find another job because she had to make money quickly to pay past due bills for a previous lifesaving medical treatment. Unaware that the story was not true, Nan gave Daniels \$1,000.

Daniels used the \$1,000 and went on a three-day drug binge. During those three days, she did not go to work, nor did she inform Nan or Smith that she would not be at work. When Daniels failed to go to work and place the correct dosage of Nan's medications into the dispenser, Nan took too many pills, overdosed on her medication and died.

With what crimes, if any, may Daniels be charged; what defenses, if any, could she raise; and what is the likely result? Discuss.

## QUESTION 2

Ella has owned and operated Ella's Garden, a successful landscaping service and nursery, for several years. One day Louis called Ella's Garden, wanting to buy some exotic ferns and unusual ornamental trees for his backyard. Ella took the call, checked her price list, and informed Louis that she would sell him the ferns and trees for \$5,000. Louis excitedly agreed and said he would drive right over in his truck.

An hour later, Louis pulled up to Ella's Garden in his truck. He identified himself to Ella, gave her \$1,000 in cash, and told her that he would give her a check for the rest. As Louis loaded his truck, Ella realized that she had inadvertently referred to an outdated price list when she quoted the \$5,000 price to Louis; the actual price should have been \$6,000. Ella told Louis that she could not sell him the ferns and trees for anything less than \$6,000.

At that moment, Sarah, another customer, approached Ella. A week earlier, Sarah had hired Ella's Garden to redo Sarah's landscaping specifically in preparation for the wedding of Sarah's daughter. The comprehensive written contract, which does not mention the wedding, specified a \$7,700 price for extensive work including weeding and trimming, walkway placement, and the purchase and installation of numerous plantings. Subsequently, Sarah's daughter cancelled the wedding, and Sarah no longer wants Ella's Garden to do the work. Sarah told Ella that she would go forward with the contract, though, if Ella would do the work for significantly less money, that is \$5,500, and Ella very reluctantly agreed.

1. What contract rights and defenses, if any, do Louis and Ella have against one another, and who is likely to prevail? Discuss.
2. What contract rights and defenses, if any, do Ella and Sarah have against one another regarding the \$7,700 and \$5,500 prices, and who is likely to prevail? Discuss.

### QUESTION 3

Ken was determined to establish the best dog breeding facility in the country. He searched for an appropriate spot to locate such a major facility, and found a large tract of land far beyond the reaches of the city. He hired the best veterinarians to staff the facility, and it soon became known for producing the most desirable puppies in the country. The dogs do make a lot of noise and create a certain amount of stench, particularly due to their excrement that litters the land. Ken's business now employs 100 people full time, although no one is assigned to remove the dog waste.

Marilyn owns ten Norwegian Forest cats. Since the city restricts the number of pets that residents can own, she decided to build a home outside city limits. In the time since Ken built his facility, the suburbs expanded out towards his property. Marilyn found a perfect lot next to Ken's property, large enough for her cats to roam, and built her house there. The house contains special features for cats, such as cat walks near the ceilings.

Shortly after moving in, Marilyn began having problems. Her cats developed nervous disorders due to the constant barking of Ken's dogs. In addition, Marilyn found the noxious smell from the accumulated dog droppings, and associated swarms of flies, hard to tolerate. When Marilyn's complaints to Ken failed to resolve matters, she independently tried several measures to create a buffer zone at the edge of Ken's property that abuts her land. Whenever one of Ken's dogs gets close to Ken's wire fence, Marilyn sprays it with water from her hose to get it to back up and be quiet. She also uses the water stream to move the piles of excrement away from the fence. One time, she also sprayed air freshener on the dogs through the fence and unfortunately, two of the dogs died as a result.

1. What tort claims, if any, can Marilyn reasonably assert against Ken; what defenses, if any, can Ken reasonably assert; and what is the likely result? Discuss.
2. What tort claims, if any, can Ken reasonably assert against Marilyn; what defenses, if any, can Marilyn reasonably assert; and what is the likely result? Discuss.

## QUESTION 4

Ned learned from news reports that several homes in his neighborhood had recently been broken into at night. The reports said that the break-ins had occurred when the homeowners were not present, and that no one had been injured; however, thousands of dollars' worth of electronics had been taken. The break-ins were being perpetrated by Dara and Don. Dara would wait in the getaway car while Don broke in and stole electronics. Neither was armed during the break-ins.

Ned became obsessed with preventing his home from being broken into. He installed exterior cameras with night vision that would set off alarms inside his home if anyone approached. He also placed loaded guns that he lawfully possessed in every room. In fact, Ned began looking forward to the prospect of shooting an intruder.

One night Dara and Don chose to break into Ned's home. Dara parked outside and Don crept toward the house. Inside, Ned's alarm activated. On the video feeds, Ned saw that Don was right outside his dining room window. Ned entered the dining room, picked up a shotgun, and shot Don through the window, killing him. Don had not yet touched Ned's house when Ned shot him.

1. With what crimes, if any, can Dara reasonably be charged for the events that took place at Ned's home; what defenses, if any, can she reasonably raise; and what is the likely result? Discuss.
2. With what crimes, if any, can Ned reasonably be charged; what defenses, if any, can he reasonably raise; and what is the likely result? Discuss.