

SAMPLE MULTIPLE CHOICE QUESTIONS

1. Which of the following circumstances does not, *by itself*, constitute a basis upon which a judge shall disqualify herself from hearing a case?
 - a. The judge has a financial interest in a party to a proceeding before the judge
 - b. The judge's spouse represents a party to a proceeding before the judge
 - c. Although not biased in fact, others might reasonably question the judge's impartiality
 - d. The judge must disqualify herself in all of the situations described above

2. Which of the following would not, by itself, justify a district court decision to grant a defendant's motion for a new trial following a jury verdict for plaintiff?
 - a. important evidence was improperly excluded at trial
 - b. the district court would have found for defendant had the case been tried without a jury
 - c. important new evidence was discovered after the trial ended
 - d. the jury verdict in plaintiff's favor was against the clear weight of the evidence
 - e. all of the above would justify a new trial order

3. If defendant makes an oppressive discovery request of plaintiff, how may plaintiff properly respond?
 - a. plaintiff may seek a protective order
 - b. plaintiff may decline to supply the requested discovery and resist defendant's subsequent motion to compel discovery
 - c. plaintiff may seek sanctions under Rule 11
 - d. all of the above
 - e. a and b

4. Which of the following statements concerning Rule 12(b)(6) is *false*?
 - a. The 12(b)(6) defense may be raised in a motion for judgment on the pleadings
 - b. In evaluating a motion to dismiss under 12(b)(6) the court must accept the plaintiffs conclusions of law as true
 - c. The 12(b)(6) defense is not designed to test whether allegations in the complaint are true
 - d. If defendant's 12(b)(6) motion is granted, the court may permit plaintiff to amend her complaint
 - e. none is false

5. In her complaint, plaintiff spells out, in considerable detail, accusations sufficient to establish every essential element of a claim against defendant. Defendant later files a motion for summary judgment, in which she demonstrates that there is no evidence in the record to support an essential element of plaintiff's claim. Plaintiff opposes summary judgment on the grounds that defendant failed to disprove the existence of the essential element in question. Should summary judgment be granted?
 - a. yes, because defendant met and shifted her burden of production by demonstrating that there is no evidence in the record to support an essential element of plaintiff's claim,

and plaintiff did not show that there is a genuine, triable issue

- b. no, because plaintiff's complaint and defendant's motion disagree as to the existence of an essential element of plaintiff's claim, which creates a genuine issue of material fact.
- c. yes, because defendant met and shifted her burden of production by filing the motion for summary judgment, and plaintiff did not show that there is a genuine, triable issue
- d. no, because defendant must demonstrate that there is no evidence in the record to support *every* essential element of plaintiff's claim.
- e. no, because defendant failed to disprove the existence of an essential element of plaintiff's claim

6. Under which of the following circumstances may discovery properly be denied?

- a. Although relevant to the subject, the discovery sought is not relevant to the claim
- b. The discovery sought is duplicative of discovery previously obtained
- c. The burden of producing the discovery outweighs the benefit
- d. The information sought constitutes party work product
- e. All of the above

7. If a defendant seeks to add an outsider to the litigation on the theory that the outsider's ability to protect its own interests will be impaired unless it is included in the litigation, then:

- a. the outsider may be added by interpleader
- b. the outsider may be added by compulsory joinder
- c. the outsider may be added by impleader
- d. the outsider may be added by permissive joinder
- e. the outsider may be added by intervention

8. In *Galloway v. U.S.*, what did the Court conclude with respect to Galloway's argument that the directed verdict violated his right to a jury trial?

- a. A directed verdict was proper because as of 1791 there were other comparable mechanisms in place that denied parties an absolute right to a jury trial
- b. A directed verdict violated Galloway's right to a jury trial because as of 1791, the directed verdict did not exist
- c. A directed verdict was proper because claimants under the War Risk Insurance Act were not entitled to a trial by jury
- d. A directed verdict violated Galloway's right to jury trial because it ran afoul of the 7th amendment requirement that "no fact tried by a jury shall be otherwise reexamined in any Court."
- e. a and c

9. A, an Indiana citizen and resident of the Northern judicial district of Indiana, got into a car accident in Oregon with B, an Oregon citizen and resident. The Indianan filed suit against the Oregonian in federal district court for the Northern District of Indiana, seeking \$100,000 in damages. A served B with process in Indiana while

B was visiting Indiana on unrelated business. Does the Indiana district court have personal jurisdiction over B?

- a. Yes, because B was physically present in Indiana when served. Minimum contacts are irrelevant
- b. Yes, because B's presence in Indiana will be deemed to establish minimum contacts there
- c. Yes, because the suit is between citizens of different states, for an amount in excess of 75,000
- d. No, because B does not reside in the northern district of Indiana, and no substantial part of the events giving rise to the dispute occurred in Indiana
- e. a or b

10. What explains the difference in the Supreme Court's approach toward personal jurisdiction as reflected in its decisions in *Pennoyer* and *International Shoe*?

- a. *Pennoyer* focused on principles of public law, while *International Shoe* focused on the due process clause of the fourteenth amendment
- b. *Pennoyer* limited personal jurisdiction with reference to where the defendant or his property were physically present, while *International Shoe* did so with reference to the defendant's minimum contacts with the forum
- c. *Pennoyer* was more concerned with making certain that the exercise of personal jurisdiction did not undermine state sovereignty, while *International Shoe* was more concerned with making certain that exercise of personal jurisdiction comported with fair play and substantial justice
- d. All of the above
- e. a and b only

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