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A FORUM EXCLUSIVE

New Format for Upcoming Maryland Bar Exam

Reported by: Jeffrey S. Kluger

Early last year, the *Forum's* sources received a tip that future Maryland State Bar Exams are to be quite different from those administered in the past. After many months of investigation we managed to obtain a discarded first draft of the upcoming July exam. Although it is unlikely that any of the questions herein will actually appear on the exam, they will nevertheless give you a flavor of the nature of problems with which you are likely to be confronted when taking the Maryland exam.

THE NEW MARYLAND STATE BAR EXAM

Dear Prospective Bar Member:

Congratulations! You and the other candidates being examined today have the distinct honor of being the first in the state to experience The New Maryland State Bar Exam. The questions contained herein have been exhaustively researched and selected to provide a maximum of topical relevance and practical experience. Unlike candidates of the past you will be operating under very liberal time limitations. Under most circumstances you will be given as much time as you need to complete each question in as thorough a fashion as possible. Moreover, you will not be confined to the exam room for the extent of the testing period. As you will soon discover, the problems presented demand great latitude in your search for answers.

You have been provided with a resources packet containing many of the materials you will need to complete the

exam successfully. You are free to employ any other tools you may uncover. Try to be as ethical and law-abiding as possible although you may, to paraphrase a former world figure, "go right to the edge of the law." Good luck, and don't fall off.

Question #1: CONTRACTS

Baseball great Reggie Jackson has played out his option with the New York Yankees. Although he is now free to play for any team he chooses, he has expressed a desire to remain a Yankee providing he receives an "acceptable offer." George Steinbrenner, the owner of the team, is in somewhat less than full agreement with Reggie's definition of the term "acceptable." As a result of this dispute, the Yankee franchise has been thrown into a state of turmoil. Your job is to negotiate a contract between the two parties that will be wholly acceptable to both and assure peace within the Yankee organization. You have the rest of your natural life.

Question #2: PROFESSIONAL RESPONSIBILITY AND ETHICS

The XYZ Chemical Corporation has been producing a food preservative known popularly as *Gluteamus*. Shortly after production of the chemical began, the Company's own researchers discovered that it contained dangerous carcinogenic properties. Despite this knowledge, the Company continued to produce the chemical. In the ensuing five years, several hundred cancer deaths have been directly attributed to the use of the preservative in many popular food items.

Additionally, the industrial waste generated as a by-product of the manufacturing process has given the waters in Lakes Huron and Superior a consistency approximating margarine.

Several million dollars worth of suits were brought against XYZ. You were hired as counsel for the defendants and after exhaustive research, discovered several obscure procedural flaws in the plaintiffs' cases which resulted in a summary judgment in favor of your amoral client. The hopelessly victimized plaintiffs have gone totally uncompensated. Your assignment now is to reconcile your actions in your own mind. You may consult your resources package for help. You will find a number of lame rationalizations, a series of laughingly transparent excuses, a large retainer fee and a small, atrophied conscience. Use these to their fullest.

Question #3: CIVIL PROCEDURE

Assume it is July, 1975. The joint U.S./Soviet Apollo-Soyuz mission is in orbit around the earth. During a routine docking procedure, United States Astronaut Thomas Stafford carelessly misjudged a delicate maneuver and collided with the craft carrying Russian Cosmonauts Alexi Komarov and Yuri Gagarin. Both Russians were injured severely. The accident took place while the two ships were orbiting over Peru. Do you see any jurisdictional questions in a suit brought by the Russians? Explain. Would your answer be any different if the spacecraft had been orbiting over Louisiana at the time of the accident?

Question #4: JURISPRUDENTIAL HISTORY AND LEGAL PHILOSOPHY

Prove the existence of a pure and perfect judicial order within the confines of the physical universe. Be brief.

Question #5: CRIMINAL LAW

In the wake of the Florida murder trial in which fifteen-year-old defendant Ronnie Zamora raised television-induced insanity in answer to the charge of murder, many similarly new and untried defenses have sprung up nation wide. You have been assigned one such case.

Your client, Kip Arundel, has been charged with a grisly murder and dismemberment. In response, Mr. Arundel asserts that he was not responsible for his actions at the time of the murder due to the fact that he was operating under the compelling influence of a number of small kitchen appliances. In his post-arrest statement the defendant remarked, "I heard voices telling me over and over again to 'puree, puree, puree,' so I did . . . on a grand scale." Your job is to develop this argument into a workable brief to be submitted at the opening of the trial one month from today.

Question #6: EQUITY

As you progress in the practice of law you will find that a facility with legal principles and an insightful analytical ability will amount to little if not accompanied by a properly benign, parental facade. Admittedly, most attorneys have mastered the basics: a sympathetically arched eyebrow, a thoughtful click of the tongue,

deftly steepled fingers. But how many have expanded on these essentials? How many are skilled at the art of energetically pacing in front of their office window while describing a defense to a client? Who within the profession can convincingly squeeze a client's shoulder in a gesture of divine protection? What precious few can grimly chew the stem of a pipe, seemingly lost in concentration over his client's well-being all the while trying to arrive at the cheapest way to get the barnacles off the family boat? Few today would deny the importance of such tools to the successful practice of law. Despite such long overdue recognition, however, a frighteningly large majority of the legal community continues to ignore a veritable motherlode of judicial histrionics: the art of Murmuring Homespun Homilies.

Certainly, courts of Equity have long been the sole fertile ground for the survival of this oft-abused practice skill. Countless lawyers have peered over their glasses at a client and firmly reminded him that "equity demands clean hands," "equity has a conscience," and so on. Who could be left unmoved by such earthy wisdom? Unfortunately, the crop of generally accepted equitable homilies will not fit every situation. You, as an attorney, will often be called upon to make the slogan fit the circumstance. This will have to be done quickly and effectively. To test your ability in this area, we have provided you below with three groups of cliché fragments. Your assignment is to select one fragment from each group and in the time allotted (20 Minutes) compose as many learned slogans as possible. Good Luck.

Group A: (1) "Equity. . ." (2) "Courts of Equity. . ." (3) "Equitable remedies. . ." (4) "Equitable Trust. . ."

Group B: (1) ". . . suggest[s]. . ." (2) ". . . demand[s]. . ." (3) ". . . will not tolerate. . ." (4) ". . . is horrified even at the prospect of. . ."

Group C: (1) ". . . Gucci briefcases." (2) ". . . Wingtips." (3) ". . . a well-balanced breakfast." (4) ". . . that kind of outburst in this courtroom." (5) ". . . a satisfying, yet not overly indulgent sexual encounter with that man/woman you never quite got over, did you?" (6) ". . . two tickets to the Knicks game." (7) ". . . an ugly scene." (8) ". . . madcap antics." (9) ". . . a brain, a heart, courage and Kansas." (10) ". . . a crying shame." (11) ". . . a cigarette after."

Question #7: LABOR LAW

Open your resources packet. You will find therein a number of newspaper clippings, several cryptic "leads" from unnamed sources and a dental record of dubious authenticity. Using these, and whatever other tools you may unearth, locate and verifiably identify the body of Jimmy Hoffa.

Question #8: LEGAL ANALYSIS AND WRITING

Define the following terms using no more than 15 words for each definition. You may not use examples.

- (a) Justice
- (b) Reasonable
- (c) Rights
- (d) Liberty
- (e) Equitable
- (f) Prudent

END OF EXAM. PLEASE HAND YOUR ANSWER SHEET TO THE PROCTOR ON DUTY. BEST OF LUCK.

