

1) A husband and wife had been married for five years. One evening at home while the two were having dinner alone, the wife shared that she had lied about her high school grades in all of her resumes because she was ashamed of how poorly she did. She told him she had to care for her younger siblings because her parents were always away on business, which interfered with her studies.

Three months later, the wife's employer discovered that her resume was inaccurate and terminated her. The wife filed a lawsuit alleging various employment law claims, and the employer sought to call the husband to show, as part of the employer's defense, that the wife had knowingly lied about her grades when she applied to work for the employer.

If the husband is called to testify at trial, may he testify?

- A) Yes, if he wishes to do so, even if the wife does not want him to testify.
- B) Yes, if the wife wishes him to do so, even if he does not want to testify.
- C) Yes, but only if the court grants him special permission to do so.
- D) No, if either the wife or the husband wants him not to testify.

2) A husband and wife had just gotten married when the husband was sued for battery by one of the guests at the couple's wedding. The lawsuit was based on the husband knocking the guest down a flight of stairs right before the wedding started. The husband claimed it was an unintentional, uncontrollable muscle spasm that caused him to bump into the guest. The guest claimed it was an intentional push.

The guest sought to call the wife to testify against the husband at trial. The guest alleged that, on the night before the wedding ceremony, the husband told his future wife that the husband planned to attack the guest at the wedding the next day. The husband objects to that testimony.

Should the court permit the wife to testify?

- A) Yes, because the Federal Rules of Evidence do not recognize any privilege applicable to this situation.
- B) Yes, if the wife wishes to testify.
- C) No, if the husband has objected on the basis of the spousal testimony privilege.
- D) No, if the husband has objected on the basis of the marital communications privilege.

3) A criminal defense lawyer regularly met with clients during the week, but on one weekend he agreed to meet a defendant he was representing because the defendant was nervous about the upcoming trial. The lawyer made a variety of notes as to trial strategy in the meeting, and he labeled his notes with the client's name and the date and time of the meeting.

After the meeting, the defendant left the lawyer's parking lot and walked to a local bar around the corner. Shortly before reaching the bar, the defendant got into a fight with someone who accidentally ran into defendant as they passed on the sidewalk. The defendant then ran away.

A grand jury was formed to consider whether to charge the defendant with battery, and one of the primary issues was whether it was the defendant or someone else who committed the crime. The owner of a bakery that was across from the lawyer's office saw someone leave the lawyer's office, walk towards the bar, and then get in a fight with the victim. The bakery owner could not identify the perpetrator, however, and could instead identify only the time it happened. The victim also could not identify the perpetrator.

If the lawyer is asked to give to the grand jury the name of the person who left his office at the time in question that weekend, may the lawyer so testify?

- A) No, because it is protected by the attorney-client privilege.
- B) No, because it is protected by the work product privilege.
- C) Yes, because it does not reveal a confidential communication.
- D) Yes, but only because there is a great need for the lawyer to testify since the evidence is not available otherwise without undue hardship.

4) A newspaper columnist was sued for defamation and was searching for a lawyer to represent her. The columnist first went to see a partner at a prestigious law firm. The partner's secretary let the columnist into the partner's office while the partner had her back turned and was pouring herself a drink of water. The columnist immediately said, "I need a lawyer. I lied about whether someone was having an affair because I wanted to get back at them." When the partner turned around, she realized she knew the columnist from when they both went to college. The partner refused to represent the columnist because of a heated argument they had in college.

If the partner is called to testify in the civil defamation lawsuit against the columnist, may the partner tell the jury what the columnist told her?

- A) No, because it is protected by the attorney-client privilege.
- B) No, because it is protected by the Calvin doctrine.
- C) Yes, because the attorney-client privilege does not apply in civil cases.
- D) Yes, because the attorney was not the columnist's lawyer yet and did not agree to represent the columnist.

5) A vending machine tipped over and broke a basketball player's leg. The basketball player sued the manufacturer of the machine and claimed that the machine's front legs were defective and caused the vending machine to be prone to tipping over when the merchandise in it was running low. The vending machine manufacturer argued that the machine's legs were safe and that nothing could be done to make the machine safer. The plaintiff seeks to introduce evidence showing that the manufacturer made the legs of all of its machines safer by reinforcing their legs and installing weights in the back corner of the machines after the basketball player filed the lawsuit.

How should the court rule as to whether the evidence of improvements is admissible?

- A) It is inadmissible, because it is evidence of subsequent remedial measures.
- B) It is inadmissible, because the repairs were made after the lawsuit was filed, not before.
- C) It is admissible, and it can also be used to show that the manufacturer negligently failed to design the machine properly.
- D) It is admissible, because it is being used to show repairs were possible.

6) A car enthusiast made a variety of changes to her car to make it faster. The enthusiast spent many hours each weekend working on the car. After the enthusiast was involved in a car accident that allegedly involved speeding on a major highway, the prosecutor charged the enthusiast with reckless driving, a first-degree misdemeanor offense. The prosecutor based the charge on the enthusiast allegedly driving twice the speed limit right before the accident. The enthusiast argued in response that she could not have been driving twice the speed limit because it would be faster than her car was capable of driving. The prosecutor sought to call the enthusiast's husband to testify as to approximately how many total hours he saw the enthusiast working on the car to make it faster.

May the husband testify about that issue?

- A) Yes, because the marital privilege does not apply to criminal cases.
- B) Yes, because the husband is not being asked to relay any communications and instead to simply testify as to what he saw his spouse do.
- C) No, because the enthusiast may prevent the husband from testifying.
- D) No, if the husband does not want to testify.

7) A patient and doctor had a dispute about whether the doctor failed to properly set the patient's bone. The doctor denied any wrongdoing but felt sorry for the patient and offered to pay for surgery to fix the injury. The jurisdiction where the lawsuit was filed has adopted the common law doctor-patient confidential communications privilege.

If the patient seeks to introduce the doctor's offer to pay her medical expenses, is the offer admissible?

- A) Yes, because the doctor felt sorry for the patient.
- B) No, because it is protected by the doctor-patient confidentiality privilege.
- C) No, because it is an offer to pay medical expenses.
- D) No, because it is protected by the doctor-patient confidentiality privilege and also because it is an offer to pay medical expenses.

8) While having his car's oil changed, a customer asked to use the business's bathroom. The mechanic pointed to the bathroom and said the customer could use it. When the customer was walking to the bathroom, he was startled by a loud air compressor that the shop used to power some of its tools. Because of the surprise, customer hit his head on equipment mounted near the compressor. The mechanic realized what happened and yelled over, "I hate that thing! It's so loud—it makes me jump every time! Don't worry, the shop will pay for any doctor bills you get!"

If the customer seeks to admit the statement of the mechanic, how should the court rule?

- A) The mechanic's statement is inadmissible.
- B) The offer to pay the doctor's bills is admissible, but the mechanic's statement that the compressor is loud and makes him jump is inadmissible.
- C) The mechanic's statement that the air compressor is loud and makes him jump is admissible, but the offer to pay the customer's doctor's bills is inadmissible.
- D) The mechanic's statement is admissible.

9) A client was charged with identity theft. As part of the government's case against the client, they sought to introduce a portion of a letter that the client wrote to an attorney asking for the attorney's advice.

The government is most likely to be able to introduce the letter at trial if

- A) the attorney had not yet agreed to represent the client.
- B) the client's girlfriend helped him proofread the letter.
- C) the client wrote the letter by hand instead of on a computer.
- D) the attorney took notes on the letter as to planned trial tactics.

10) A parent met with a psychologist every month. During one of those sessions, the parent revealed to the psychologist that the parent recently became furious with his neighbor over the neighbor's statements to the parent's children. When the psychologist asked the parent for more details, the parent admitted that he regularly became angry with his neighbor. When the neighbor went missing, police started by talking to the people who lived near the neighbor to see if anyone had seen anything suspicious. Based on evasive answers the parent gave to the police, the parent became a suspect and, eventually, was charged with kidnapping and murder.

May the prosecutor compel the psychologist to testify about the parent regularly becoming angry with the neighbor?

- A) No, because it is protected by the psychotherapist-patient privilege.
- B) Yes, because the Federal Rules of Evidence do not recognize a psychotherapist-patient privilege.
- C) Yes, because the psychotherapist-patient privilege applies only to statements made to psychiatrists.
- D) Yes, because the patient waived any privilege by answering the psychologist's questions about getting angry at the neighbor.

11) During a settlement conference, the defendant admitted that he hit plaintiff's car and that he was drunk at the time of the accident. He also admitted that the plaintiff suffered at least \$1,000,000 in medical bills, rehabilitation bills, property damage, and pain and suffering. Settlement discussions eventually broke down, and the parties did not reach an agreement to settle the case.

At trial, the defendant denied causing the accident, denied that the plaintiff was injured to the extent the plaintiff claimed, and accused the plaintiff of fabricating all of the plaintiff's injuries.

May the plaintiff introduce defendant's statements admitting that he hit the plaintiff's car, that he was drunk at the time, and that the plaintiff suffered at least \$1,000,000 in damages?

- A) No, because they were made during a settlement conference.
- B) No, because they are protected by attorney-client privilege.
- C) Yes, both the statements about hitting the plaintiff's car while drunk and the statement about damage amounts.
- D) Yes, but only for the statement about damage amounts.

12) After a ten-hour meeting in which the parties to a contract dispute discussed possible ways to resolve the dispute without going to trial, everyone agreed that a lawsuit was inevitable. During the negotiation, the plaintiff made several statements that would be harmful if introduced at trial. However, the defendant repeatedly denied any wrongdoing even when his own attorney explained to him that going to trial would probably cost the defendant more money than paying the plaintiff the amount the plaintiff requested. At trial, the defendant moves to introduce his own statements from the ten-hour meeting to show that he did nothing wrong.

The court should

- A) rule that the statements are admissible, because no settlement was reached.
- B) rule that the statements are admissible, because they are the moving party's own statements.
- C) rule that the statements are inadmissible, because they were part of efforts to reach a compromise.
- D) rule that the statements are inadmissible, because no settlement was reached.

13) A client and his lawyer are discussing strategies for the client's upcoming civil trial. Which of the following facts, if true, is LEAST likely to hurt the client in the lawsuit?

- A) The client made incriminating statements to his Rabbi.
- B) The client made incriminating statements to his current wife before they got married.
- C) The client offered to pay the defendant's medical bills.
- D) The client has an insurance policy that shows he owns the car that was involved in the hit-and-run accident the lawsuit is based on.

14) A minor child was driving a recreational vehicle designed for children when the child ran into a pedestrian, crushing the pedestrian's foot. Three weeks ago, the pedestrian sued the child's parents and the manufacturer of the recreational vehicle, alleging that the parents were negligent and the recreational vehicle had insufficient brakes. In the lawsuit, the child's parents claimed it was not their recreational vehicle. The manufacturer claimed that the recreational vehicle had sufficient brakes and that nothing could be done to improve the brakes.

The pedestrian sought to introduce evidence that, under a section titled "list of insured party's personal property" in the parent's homeowner insurance policy, the parents wrote the name and model of the recreational vehicle. The pedestrian also sought to call a factory worker to testify that the manufacturer had its employees make several adjustments to the brakes one week ago to make the brakes stop the vehicle more quickly.

Is the evidence admissible?

- A) No, because the evidence is excluded for public policy reasons since it is evidence of the defendant owning an insurance policy and evidence of subsequent remedial measures.
- B) No, the evidence of the insurance policy is not admissible, but the evidence of repairs to the brakes on other similar model recreational vehicles is admissible.
- C) No, the evidence of repairs to the brakes on other similar model recreational vehicles is not admissible, but the evidence of the insurance policy is admissible.
- D) Yes, both types of evidence are admissible.

15) A toaster malfunctioned while a child was making breakfast. As a result, the child suffered burns on his hands. The child's family sued the toaster manufacturer and alleged that a defective cord design made the metal frame of the toaster sometimes prone to overheat which is what caused the burns the child suffered. To support their case, the family sought to introduce evidence that the toaster manufacturer redesigned the toaster two months before the injury and, among the improvements, fixed the toaster cord issue.

May the child's family introduce evidence of the remedial repairs the manufacturer made?

- A) Yes, because it is relevant evidence.
- B) Yes, because the Federal Rules of Evidence do not recognize the subsequent remedial measures basis for excluding evidence.
- C) No, because the Federal Rules of Evidence do recognize the subsequent remedial measures basis for excluding evidence.
- D) No, because the overheating happens only sometimes as a result of the defect.