



**SEPERAC JULY 2017 MBE-MEE OUTLINE
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SEPERAC MBE-MEE OUTLINE OVERVIEW

This 370 page outline contains the black letter law and past tested MEE issues for the 14 MBE-MEE subjects. It is keyed to the 2017 NCBE Subject Matter outlines and broken down into 358 different categories that represent the ABC level items in the 2017 NCBE Subject Matter outlines. For each of the 358 categories, the frequency of appearance of the category on the MBE + MEE is reported. This outline is NOT the SEPERAC UBE MASTER OUTLINE, but rather, a lite-version of it. The differences between the two outlines are summarized as follows:

OUTLINE FEATURE	SEPERAC MBE-MEE OUTLINE	SEPERAC UBE MASTER OUTLINE
Total number of pages	370	495
Fully comprehensive MBE + MEE outline keyed to the 2017 NCBE Subject Matter outlines (meaning all currently tested areas such as the Fair Housing Act, broker's commissions, title insurance, zoning/non-conforming uses, etc. are appropriately covered)	YES	YES
Contains 25 pages of black letter law per MBE subject (including tables/charts for visual learners) that is proportionally and contentually on point with the upcoming July 2017 MBE exam	YES	YES
Contains the frequency of appearance for each of the 358 MEE categories and estimated number of MBE questions for each of the 169 MBE categories	YES	NO
Subjects sorted in priority order (based on how many points each subject is expected to contribute to your July 2017 MBE+MEE score)	YES	YES
Contains over 1,300+ built-in MEE issues from the last 45 MEE exams arranged by category for MEE issue-spotting and MBE review	YES	YES
The outline is downloadable in WORD format to enable examinees to edit and modify it (add notes/comments/change fonts/etc)	NO	YES
Contains over 1,600+ built-in MBE Rules based on the released NCBE questions from 1991-2017	NO	YES
Contains priorities for each MEE category based on statistical analysis (see http://seperac.com/analysis.php) which enables examinees limited in time to ignore the low priority topics	NO	YES
Contains study recommendation for the 358 MBE/MEE categories (telling you to study 1x week, 2x week, 1x month, etc. based on how much each category is expected to contribute to your July 2017 MBE/MEE score)	NO	YES
Contains 250+ hypotheticals of MBE issues that are relevant to the upcoming July 2017 MBE exam	NO	YES
Contains 1,000+ parenthetical short explanations of the black letter law (the flesh on the bones, so to speak)	NO	YES
Contains 250+ yellow highlighted sections identifying the topics/areas I believe will be tested on the upcoming July 2017 UBE.	NO	YES
Contains built-in hyperlinks and access to the MEE Topic Summaries document to enable quick review of written summaries of each category/topic previously tested on the MEE	NO	YES
Contains built-in hyperlinks and access to the MEE Released Answer Compilation to enable quick review of the released MEE questions and answers associated with each MEE issue	NO	YES



Basically, the SEPERAC MBE-MEE outline is the SEPERAC UBE MASTER outline without the priorities (which enables examinees limited in study-time to ignore the lower priority topics), the study-time allocation suggestions, the MBE rules from past NCBE exams, the MBE hypos, the short examples, the highlighting of most likely tested-topics, or the MEE topic/issue hyperlinks that take you to the MEE topic summaries and released MEE exam answers.

What this MBE-MEE outline does contain is the exact same black letter law as my UBE MASTER OUTLINE (which is the law I expect to appear on the upcoming July 2017 MBE and MEE) along with the built in 1,300+ MEE issue statements to help with your MEE issue spotting (and also help you on the MBE, especially with Civil Procedure). I go through a lot of effort to make sure this outline is both highly proportional and highly contextual (e.g. each page of black letter law for the MBE subjects is expected to represent one MBE question on the exam). I am not aware of any other outline that does this. For example, for the subject of Criminal Law/Procedure, 12 of the 25 pages are on the Constitutional Protection of Accused Persons making it 7% of the outline since it is expected to be 7% of your MBE score. The black letter law sections of the outline will appropriately tell you what to expect on the upcoming MBE and MEE exams (better than likely any other source available, especially at this size). For example, based on the NBCE Subject Matter outline, the subject of Real Property consists of five categories: (1) Ownership; (2) Rights in Land; (3) Contracts; (4) Mortgages; and (5) Titles. Each category is equally weighted, meaning each category will represent 20% of your Real Property MBE score. However, if you look at the MBE outlines of the big bar reviews, you would not see anything remotely close to these proportions. For example, 44% of Barbri's Real Property outline is based on category 1 (Ownership) even though it is only 20% of an examinee's MBE score. Meanwhile, 7% of Barbri's Real Property outline is based on category 3 (Contracts) even though it is 20% of an examinee's MBE score. Likewise, 8% of Barbri's Real Property outline is based on category 4 (Mortgages) even though it is 20% of an examinee's MBE score. Kaplan and Themis are similar. For Kaplan, 45% of Kaplan's Real Property outline is based on category 1 (Ownership); 9% is based on category 3 (Contracts) and 9% is based on category 4 (Mortgages). For Themis, 36% of Themis' Real Property MBE outline is based on category 1 (Ownership); 9% is based on category 3 (Contracts) and 12% is based on category 4 (Mortgages). The average examinee gets about 18/25 correct on Real Property MBE questions. If you miss 50% of the category 3 (Contracts) and category 4 (Mortgages) MBE questions because your outline was 50% too small for those categories, that is about 5 MBE questions (which translates to 3-4 total UBE points).

With the MBE-MEE outline, you won't see such inefficiencies, except in rare cases (about 5% of the categories required more content than what proportionality dictated). I frequently vacillate over whether I should make a shorter outline that is easier to digest or a longer outline that covers the materials even better, but I regard one page of black letter law per MBE question as the happy medium. The one thing I can assure you about my outline is that you are not wasting your time when you read it. Every piece of information in it is relevant to the upcoming exam. The problem I face is that the exam alternates what it tests, so I have to cover more rather than less. For example, the category of Real Property Ownership (Special Problems) is generally one question on the MBE (sometimes two). It covers the following areas: (1) Rule Against Perpetuities; (2) Alienability descendibility and devisability; and (3) Fair housing discrimination. The trend has been to test the FHA, but RAP is still occasionally tested (alienability infrequently tested). Thus, my outline covers the areas as proportionally needed, and in this case it ends up being over a page. However, if you go with other outlines, there will be countless pages on RAP and nothing on FHA, essentially wasting study-time. You should treat this outline as your MBE/MEE bible. If it is not in the outline, don't worry about it. If the outline covers something in depth, it is important. If it doesn't, it is not. This doesn't mean it won't show up on the exam, it simply means you are studying efficiently.

This outline is a "dense" condensed outline. Due to the wide range of content that can be tested on the MBE and MEE, a denser outline is the more appropriate choice to study for the upcoming exam. For example, a subscriber who scored a 174 on the MBE in NY and then a 177 on the MBE in NJ told me: "... as far as the MBE is concerned, your outlines have been most useful since you emphasize the fine distinctions." Furthermore, I



determined that “repeat” topics are less likely to occur on the MEE, necessitating the need for a broader/denser overall outline. For example, in categorizing every single topic tested on the MEE since 1995, I determined that out of the 798 individual topics tested on the MEE exams since 1995, 519 of these topics were tested just once (65%) while 279 of these topics were tested more than once (35%). Accordingly, if you rely on an outline that is based solely on previously tested MEE topics, it will fail to cover a majority of the exam.

Furthermore, the MBE and MEE are too intertwined to be studied for separately (i.e. concepts tested on the MEE are tested on the MBE and vice versa). Thus, my UBE MASTER outline has the MEE issues built into it so you can review them for both the MBE and the MEE. If you study for the MEE separately, you will duplicate your studies in some areas and study less efficiently. Finally, the primary focus of this MBE-MEE outline is on the MBE because according to NCBE, "*MBE scores are highly related to total bar exam scores.*" see http://www.ncbex.org/assets/media_files/Bar-Examiner/articles/2011/800411Testing.pdf

In my experience, if examinees do well on the MBE, they typically pass the exam. While it is impossible to say how much of the July 2017 UBE exam this outline will cover, I expect it to cover about 85-90% of what is tested on the upcoming MBE and MEE. I urge examinee to go back to this outline after the exam (see my post-exam followup form below) and tell me what was missing from the outline – I can assure you that there won't be much.

HOW TO USE THE SEPERAC MBE-MEE OUTLINE

Each of the 358 categories in this outline are ordered based on the ABC level of the 2017 NCBE Subject Matter outlines. However, the subjects are sorted in order of importance (how much each subject is expected to contribute to your July 2017 MBE+MEE score). Accordingly, the subjects listed last are significantly less important to your overall UBE score than the subjects listed first. For example, on the July 2016 UBE exam, 68% of an examinee's MEE score (which is 30% of the total UBE score) came from MBE subjects (meaning 70% of an examinee's total UBE score came from the 7 MBE subjects). I expect NCBE's testing of the MEE specific subjects on the MEE to wax and wane from exam to exam – on some exams a majority of the MEE will be based on the MEE specific subjects whereas other MEE exams will consist mainly of MBE subjects. However, examinees should still expect their knowledge of the 7 MBE subjects to represent 60%-70% of their total UBE score (making the 7 MEE specific subjects about 10-20% of your total UBE score and the MPT the remaining 20%). Each of the 358 categories has a heading that appears as follows:

**ConLaw: Cat II: Sep of Powers (A. The powers of Congress) – MBE: 1-2 Qs – MEE: 2/19 exams (11%)
Avg pts: 50**

The prefix tells you the Subject (e.g. **ConLaw**), the NCBE Category (e.g. **Cat II: Sep of Powers**), and the NCBE ABC level (e.g. **A. The powers of Congress**). The next part of the heading tells you how many graded MBE questions (out of 175 graded MBE questions) you can expect to see on the MBE exam from this category. For example, **MBE: 1-2 Qs** means that the category of Constitutional Law Separation of Powers should represent between 1- 2 of the 175 graded questions on the upcoming July 2017 MBE.

The next part of the heading tells you how many times this category has been tested on the MEE (based on 45 exams for the MEE subjects + Civil Procedure or 20 exams for the other MBE subjects which were introduced in 2007). For example, **MEE: 2/20 exams (11%)** means that for the 20 MEE exams where Constitutional Law category of Separation of Powers was testable, it was tested on 2 of those 20 exams (meaning an appearance rate of 11%). Finally, if a category has been tested on the MEE, the average points that category contributed to an examinee's MEE score is reported (based on the NCBE Answer Analysis point breakdowns by issue). For example, **Avg pts: 50** means that when this category was tested on the 2 MEE exams, it averaged 50/100 points (meaning it typically represented about 50% of an examinee's grade on that MEE essay).



After each category, I outline what I regard as the relevant black letter law to cover the majority of what you can expect to see tested on the MBE and MEE. For the MEE, issue spotting is paramount, so examinees should read/study the MEE issues built into the outline. Knowing how the issues were tested on the MEE in the past helps immensely with issue spotting MEE questions. The issues are color coded, so you know the result after you read the issue question. This color coding is designed to enable you to study more efficiently by seeing the answer in color. If the answer to the issue is in the Affirmative, the answer appears in **GREEN**. If the answer to the issue is in the Negative, the answer appears in **RED**. If the answer to the issue is neutral or cannot be answered definitively, the answer appears in **BLUE**. For example:

THE ANSWER TO THE ISSUE IS AFFIRMATIVE:

2015-FEB-Q5-P2: (35%) Are two corporations diverse for purposes of federal jurisdiction when they are incorporated and headquartered in different states but their main facilities are located in the same state, which is also the state of incorporation of one of the businesses? **The District Court has diversity jurisdiction over MedForms's breach of contract claim because the amount in controversy exceeds \$75,000 and MedForms and the company are citizens of different states.**

THE ANSWER TO THE ISSUE IS NEGATIVE:

2015-FEB-Q5-P2: (35%) Are two corporations diverse for purposes of federal jurisdiction when they are incorporated and headquartered in different states but their main facilities are located in the same state, which is also the state of incorporation of one of the businesses? **The District Court has diversity jurisdiction over MedForms's breach of contract claim because the amount in controversy exceeds \$75,000 and MedForms and the company are citizens of different states.**

NO ANSWER, NEUTRAL ANSWER:

2015-FEB-Q1-P1: (30%) Is the driver an independent contractor or an employee of the store? **Although the store characterized the driver as an independent contractor, the store had the right to control his conduct and thus the driver was an employee of the store.**

If the point value of an issue is below 25% (this percentage appears after the hyperlinked issue prefix), then there is less of a need to study an issue. However, the higher the point value of the topic, the more often you should examine and understand the issue answers.

POST-EXAM

There is a post-exam questionnaire for subscribers:
<http://seperac.com/postexamform.php>

If you take the exam and think you may not have passed, filling out this form immediately after you take the exam (while the information is still fresh in your mind) can help you later. For example, using this information, I track the key details of your attempt, so if you later find that you failed the exam, I will try to match your responses/statistics to whoever previously submitted the most comparable details (and later passed) to give you their advice on what worked for them. This input from examinees also gives me a better understanding of the effectiveness of my materials (such as this outline) along with information on the exam itself.

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**JULY 2017 CATEGORY BREAKDOWNS FOR EXPECTED MBE QUESTIONS,
MEE TOPIC FREQUENCIES AND AVERAGE MEE POINTS**

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Torts: Cat II: Negligence (F. Liability for acts of others) – MBE: 1-2 Qs – MEE: 5/20 exams (25%) Avg pts: 20	104
Torts: Cat II: Negligence (G. Defenses) – MBE: 1-2 Qs – MEE: 2/20 exams (10%) Avg pts: 15	105
Torts: Cat III: Strict/Prod Liability (A. Common law strict liability) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	106
Torts: Cat III: Strict/Prod Liability (B. Defenses to strict liability) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	108
Torts: Cat III: Strict/Prod Liability (C. Claims against manufacturers) – MBE: 1-2 Qs – MEE: 5/20 exams (25%) Avg pts: 20	108
Torts: Cat III: Strict/Prod Liability (D. Defenses to claims) – MBE: 1-2 Qs – MEE: 1/20 exams (5%) Avg pts: 25	109
Torts: Cat V: Other Torts (A. Claims based on nuisance, and defenses) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	110
Torts: Cat V: Other Torts (B. Defamation/Privacy & Defenses) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	110
Torts: Cat V: Other Torts (C. Misrepresentations & defenses) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	112
Torts: Cat V: Other Torts (D. Interference w/ business relations) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	113
ConLaw: Cat I: Judicial Review (A. State/Fed courts in fed system) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	114
ConLaw: Cat I: Judicial Review (B. Jurisdiction) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	114
ConLaw: Cat I: Judicial Review (C. Judicial review in operation) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	115
ConLaw: Cat II: Sep of Powers (A. The powers of Congress) – MBE: 1-2 Qs – MEE: 2/20 exams (10%) Avg pts: 50	117
ConLaw: Cat II: Sep of Powers (B. The powers of the president) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	118
ConLaw: Cat II: Sep of Powers (C. Federal interbranch relationships) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	119
ConLaw: Cat III: Fed Nation vs States (A. Intergovernmental immunities) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	120
ConLaw: Cat III: Fed Nation vs States (B. Federalism based limits on state authority) – MBE: 1-2 Qs – MEE: 3/20 exams (15%) Avg pts: 35	121
ConLaw: Cat IV: Individual Rights (A. State action) – MBE: 1-2 Qs – MEE: 2/20 exams (10%) Avg pts: 30	123
ConLaw: Cat IV: Individual Rights (B. Due process) – MBE: 1-2 Qs – MEE: 1/20 exams (5%) Avg pts: 50	124
ConLaw: Cat IV: Individual Rights (C. Equal protection) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	126
ConLaw: Cat IV: Individual Rights (D. Takings) – MBE: 1-2 Qs – MEE: 2/20 exams (10%) Avg pts: 50	128
ConLaw: Cat IV: Individual Rights (E. Other protections) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	129
ConLaw: Cat IV: Individual Rights (F. First Amendment freedoms) – MBE: 1-2 Qs – MEE: 12/20 exams (60%) Avg pts: 40	129
Contracts: Cat I: Formation of Ks (A. Mutual assent) – MBE: 2-3 Qs – MEE: 15/20 exams (75%) Avg pts: 35	136
Contracts: Cat I: Formation of Ks (B. Consideration) – MBE: 2-3 Qs – MEE: 7/20 exams (35%) Avg pts: 40	140

Contracts: Cat II: Defenses to Ks (A. Incapacity to contract) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	142
Contracts: Cat II: Defenses to Ks (B. Duress) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	142
Contracts: Cat II: Defenses to Ks (C. Undue influence) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	143
Contracts: Cat II: Defenses to Ks (D. Mistake, misunderstanding) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	143
Contracts: Cat II: Defenses to Ks (E. Fraud/Misrepresentation/Nondisclosure) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	143
Contracts: Cat II: Defenses to Ks (F. Illegality/Unconscionability/Public policy) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	143
Contracts: Cat II: Defenses to Ks (G. Statute of frauds) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	144
Contracts: Cat III: Parol Evid/Interp (A. Parol evidence) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	146
Contracts: Cat III: Parol Evid/Interp (B. Interpretation) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	146
Contracts: Cat IV: Perf/Breach/Discharge (A. Conditions) – MBE: 1-2 Qs – MEE: 6/20 exams (30%) Avg pts: 40	147
Contracts: Cat IV: Perf/Breach/Discharge (B. Impracticability & frustration of purpose) – MBE: 1-2 Qs – MEE: 1/20 exams (5%) Avg pts: 35	149
Contracts: Cat IV: Perf/Breach/Discharge (C. Discharge of contractual duties) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	150
Contracts: Cat IV: Perf/Breach/Discharge (D. Warranties in goods contracts) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	151
Contracts: Cat IV: Perf/Breach/Discharge (E. Subst/partial breach & Anticip repud) – MBE: 1-2 Qs – MEE: 6/20 exams (30%) Avg pts: 40	152
Contracts: Cat V: Remedies (A. Breach damages/Expectation interest) – MBE: 0-1 Qs – MEE: 6/20 exams (30%) Avg pts: 30	153
Contracts: Cat V: Remedies (B. Consequential damages) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	155
Contracts: Cat V: Remedies (C. Liquidated damages and penalties) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	156
Contracts: Cat V: Remedies (D. Avoidable consequences/damage mitigation) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	157
Contracts: Cat V: Remedies (E. Rescission and reformation) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	157
Contracts: Cat V: Remedies (F. Specific perf & injunctions) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	158
Contracts: Cat V: Remedies (G. Restitutionary & reliance recoveries) – MBE: 0-1 Qs – MEE: 2/20 exams (10%) Avg pts: 25	158
Contracts: Cat V: Remedies (H. Rights of breaching parties) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	159
Contracts: Cat VI: 3rd Party Rights (A. Third-party beneficiaries) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	159
Contracts: Cat VI: 3rd Party Rights (B. Assignment of rights/Delegation of duties) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	160
Property: Cat I: Ownership (A. Present estates & future interests) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	162
Property: Cat I: Ownership (B. Cotenancy) – MBE: 1-2 Qs – MEE: 1/20 exams (5%) Avg pts: 25	165
Property: Cat I: Ownership (C. The law of landlord and tenant) – MBE: 1-2 Qs – MEE: 14/20 exams (70%) Avg pts: 30	166
Property: Cat I: Ownership (D. Special problems) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	170
Property: Cat II: Rights in land (A. Covenants at law and in equity) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	171
Property: Cat II: Rights in land (B. Easements, profits, and licenses) – MBE: 1-2 Qs – MEE: 5/20 exams (25%) Avg pts: 30	173
Property: Cat II: Rights in land (C. Fixtures) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	175
Property: Cat II: Rights in land (D. Zoning fundamentals) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	176
Property: Cat III: Contracts (A. Real estate brokerage) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	176
Property: Cat III: Contracts (B. Creation and construction) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	177
Property: Cat III: Contracts (C. Marketability of title) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	178
Property: Cat III: Contracts (D. Equitable conversion/Risk of loss) – MBE: 0-1 Qs – MEE: 2/20 exams (10%) Avg pts: 25	179
Property: Cat III: Contracts (E. Options and rights of first refusal) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	179
Property: Cat III: Contracts (F. Fitness and suitability) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	180
Property: Cat III: Contracts (G. Merger) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	180
Property: Cat IV: Mortgages (A. Types of security devices) – MBE: 1-2 Qs – MEE: 2/20 exams (10%) Avg pts: 35	181
Property: Cat IV: Mortgages (B. Some security relationships) – MBE: 1-2 Qs – MEE: 1/20 exams (5%) Avg pts: 30	182
Property: Cat IV: Mortgages (C. Transfers) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	183
Property: Cat IV: Mortgages (D. Discharge) – MBE: 1-2 Qs – MEE: 0/20 exams (0%)	184
Property: Cat IV: Mortgages (E. Foreclosure) – MBE: 1-2 Qs – MEE: 1/20 exams (5%) Avg pts: 35	184
Property: Cat V: Titles (A. Adverse possession) – MBE: 0-1 Qs – MEE: 4/20 exams (20%) Avg pts: 25	186
Property: Cat V: Titles (B. Transfer by deed) – MBE: 0-1 Qs – MEE: 4/20 exams (20%) Avg pts: 20	186
Property: Cat V: Titles (C. Transfer by operation of law & by will) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	189
Property: Cat V: Titles (D. Title assurance systems) – MBE: 0-1 Qs – MEE: 9/20 exams (45%) Avg pts: 30	189
Property: Cat V: Titles (E. Title insurance) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	191
Property: Cat V: Titles (F. Special title problems) – MBE: 0-1 Qs – MEE: 0/20 exams (0%)	191
Wills: Cat I: Intestate Succession (A. Procedure) – MEE: 3/45 exams (7%) Avg pts: 20	192
Wills: Cat I: Intestate Succession (B. Share of the surviving spouse) – MEE: 0/45 exams (0%)	192
Wills: Cat I: Intestate Succession (C. Share of children/Remote descendants) – MEE: 13/45 exams (29%) Avg pts: 25	193
Wills: Cat I: Intestate Succession (D. Share of ancestors and collaterals) – MEE: 0/45 exams (0%)	196
Wills: Cat I: Intestate Succession (E. Advancements) – MEE: 4/45 exams (9%) Avg pts: 25	196
Wills: Cat I: Intestate Succession (F. Simultaneous death) – MEE: 0/45 exams (0%)	197
Wills: Cat II: Wills (A. Will execution requirements) – MEE: 13/45 exams (29%) Avg pts: 35	197
Wills: Cat II: Wills (B. Integration of wills) – MEE: 0/45 exams (0%)	199
Wills: Cat II: Wills (C. Codicils) – MEE: 5/45 exams (11%) Avg pts: 30	199
Wills: Cat II: Wills (D. Incorporation by reference) – MEE: 6/45 exams (13%) Avg pts: 25	200
Wills: Cat II: Wills (E. Facts of independent significance) – MEE: 0/45 exams (0%)	201
Wills: Cat II: Wills (F. Revocation) – MEE: 15/45 exams (33%) Avg pts: 35	201
Wills: Cat II: Wills (G. Revival) – MEE: 2/45 exams (4%) Avg pts: 20	204

Wills: Cat II: Wills (H. Contractual wills) – MEE: 4/45 exams (9%) Avg pts: 30	204
Wills: Cat II: Wills (I. Will Construction problems) – MEE: 39/45 exams (87%) Avg pts: 25	205
Wills: Cat II: Wills (J. Will contests) – MEE: 11/45 exams (24%) Avg pts: 35	212
Wills: Cat II: Wills (K. Nonprobate transfers) – MEE: 7/45 exams (16%) Avg pts: 30	213
Wills: Cat II: Wills (L. Personal rep powers/duties) – MEE: 0/45 exams (0%)	215
Wills: Cat III: Family Protection (A. Spouse's forced or elective shares) – MEE: 0/45 exams (0%)	216
Wills: Cat III: Family Protection (B. Share of after-born or pretermitted child) – MEE: 4/45 exams (9%) Avg pts: 20	217
Wills: Cat IV: Living Wills/POAs (A. Execution requirements) – MEE: 1/45 exams (2%) Avg pts: 30	218
Wills: Cat IV: Living Wills/POAs (B. Revocation) – MEE: 0/45 exams (0%)	218
Wills: Cat IV: Living Wills/POAs (C. Agents & Attorney-in-fact) – MEE: 0/45 exams (0%)	218
Wills: Cat IV: Living Wills/POAs (D. Authority of agent or attorney-in-fact) – MEE: 3/45 exams (7%) Avg pts: 35	218
Family: Cat I: Getting Married (A. Controversies in anticipation of marriage) – MEE: 0/45 exams (0%)	220
Family: Cat I: Getting Married (B. Limitations on who may marry) – MEE: 3/45 exams (7%) Avg pts: 25	220
Family: Cat I: Getting Married (C. Procedural requirements) – MEE: 0/45 exams (0%)	221
Family: Cat I: Getting Married (D. State of mind requirements) – MEE: 0/45 exams (0%)	221
Family: Cat I: Getting Married (E. Common law marriage) – MEE: 7/45 exams (16%) Avg pts: 25	221
Family: Cat I: Getting Married (F. Premarital contracts) – MEE: 0/45 exams (0%)	222
Family: Cat II: Being Married (A. Rights & responsibilities of spouses) – MEE: 0/45 exams (0%)	223
Family: Cat II: Being Married (B. Family privacy) – MEE: 0/45 exams (0%)	225
Family: Cat II: Being Married (C. Tortious interference with marriage) – MEE: 0/45 exams (0%)	225
Family: Cat III: Separation/Divorce (A. Grounds and defenses) – MEE: 2/45 exams (4%) Avg pts: 25	226
Family: Cat III: Separation/Divorce (B. Jurisdiction & recognition of decrees) – MEE: 11/45 exams (24%) Avg pts: 30	227
Family: Cat III: Separation/Divorce (C. Preliminary/Interlocutory/Final orders) – MEE: 0/45 exams (0%)	229
Family: Cat III: Separation/Divorce (D. Division of property) – MEE: 25/45 exams (56%) Avg pts: 30	229
Family: Cat III: Separation/Divorce (E. Maintenance or alimony) – MEE: 8/45 exams (18%) Avg pts: 35	231
Family: Cat III: Separation/Divorce (F. Child support) – MEE: 8/45 exams (18%) Avg pts: 25	233
Family: Cat III: Separation/Divorce (G. Modification of Maintenance/Child support) – MEE: 10/45 exams (22%) Avg pts: 30	234
Family: Cat III: Separation/Divorce (H. Enforcement of awards) – MEE: 2/45 exams (4%) Avg pts: 20	236
Family: Cat III: Separation/Divorce (I. Mediation & ADR) – MEE: 0/45 exams (0%)	237
Family: Cat III: Separation/Divorce (J. Separation agreements) – MEE: 4/45 exams (9%) Avg pts: 30	238
Family: Cat IV: Child Custody (A. Standards for decision) – MEE: 9/45 exams (20%) Avg pts: 30	239
Family: Cat IV: Child Custody (B. Visitation) – MEE: 7/45 exams (16%) Avg pts: 25	240
Family: Cat IV: Child Custody (C. Joint custody) – MEE: 0/45 exams (0%)	241
Family: Cat IV: Child Custody (D. Enforcement) – MEE: 0/45 exams (0%)	242
Family: Cat IV: Child Custody (E. Procedural issues) – MEE: 7/45 exams (16%) Avg pts: 30	242
Family: Cat IV: Child Custody (F. Modification) – MEE: 0/45 exams (0%)	244
Family: Cat IV: Child Custody (G. Mediation/ADR) – MEE: 0/45 exams (0%)	245
Family: Cat V: Unmarried Cohabitants (A. Rights of cohabitants inter se) – MEE: 6/45 exams (13%) Avg pts: 30	246
Family: Cat V: Unmarried Cohabitants (B. Unmarried parents & illegitimate children) – MEE: 7/45 exams (16%) Avg pts: 35	247
Family: Cat VI: Parent/Child/State (A. Legal disabilities of childhood) – MEE: 0/45 exams (0%)	249
Family: Cat VI: Parent/Child/State (B. Duty to support) – MEE: 5/45 exams (11%) Avg pts: 20	249
Family: Cat VI: Parent/Child/State (C. Intra-family immunities) – MEE: 2/45 exams (4%) Avg pts: 35	250
Family: Cat VI: Parent/Child/State (D. Claims for loss of consortium) – MEE: 1/45 exams (2%) Avg pts: 35	251
Family: Cat VI: Parent/Child/State (E. Parent's rights) – MEE: 5/45 exams (11%) Avg pts: 30	251
Family: Cat VI: Parent/Child/State (F. Custody disputes w/ parents & 3rd parties) – MEE: 0/45 exams (0%)	252
Family: Cat VII: Adoption (A. Jurisdiction) – MEE: 1/45 exams (2%) Avg pts: 40	253
Family: Cat VII: Adoption (B. Agency versus independent placements) – MEE: 0/45 exams (0%)	253
Family: Cat VII: Adoption (C. Parental consent) – MEE: 6/45 exams (13%) Avg pts: 40	254
Family: Cat VIII: Adoption Alternative (A. Artificial insemination by donor) – MEE: 2/45 exams (4%) Avg pts: 30	255
Family: Cat VIII: Adoption Alternative (B. Surrogacy arrangements) – MEE: 1/45 exams (2%) Avg pts: 25	255
Family: Cat VIII: Adoption Alternative (C. In vitro/surrogacy/embryos) – MEE: 0/45 exams (0%)	256
CorpLLC: Cat I: Corp & LLC Formation (A. Articles of incorporation) – MEE: 2/45 exams (4%) Avg pts: 20	257
CorpLLC: Cat I: Corp & LLC Formation (B. Bylaws) – MEE: 0/45 exams (0%)	257
CorpLLC: Cat I: Corp & LLC Formation (C. Art of organization/Cert of form) – MEE: 0/45 exams (0%)	258
CorpLLC: Cat I: Corp & LLC Formation (D. Operating agreements) – MEE: 0/45 exams (0%)	258
CorpLLC: Cat II: Preorganization Acts (A. Promoter Ks & fiduciary duties) – MEE: 6/45 exams (13%) Avg pts: 45	259
CorpLLC: Cat II: Preorganization Acts (B. Subscriptions for shares) – MEE: 0/45 exams (0%)	260
CorpLLC: Cat III: Piercing the Veil (A. Corporations) – MEE: 3/45 exams (7%) Avg pts: 35	260
CorpLLC: Cat III: Piercing the Veil (B. Subsidiaries) – MEE: 2/45 exams (4%) Avg pts: 45	260
CorpLLC: Cat III: Piercing the Veil (C. LLCs) – MEE: 0/45 exams (0%)	261
CorpLLC: Cat IV: Financing Org (A. Sources of finance) – MEE: 0/45 exams (0%)	261
CorpLLC: Cat IV: Financing Org (B. Security issuance & character) – MEE: 5/45 exams (11%) Avg pts: 20	262
CorpLLC: Cat IV: Financing Org (C. Dividends and distributions) – MEE: 1/45 exams (2%) Avg pts: 30	264

CorpLLC: Cat IV: Financing Org (D. Redemptions and repurchases) – MEE: 0/45 exams (0%)	264
CorpLLC: Cat V: Mgmt & Control (A. Shareholders) – MEE: 30/45 exams (67%) Avg pts: 30	264
CorpLLC: Cat V: Mgmt & Control (B. Directors) – MEE: 6/45 exams (13%) Avg pts: 30	269
CorpLLC: Cat V: Mgmt & Control (C. Officers) – MEE: 6/45 exams (13%) Avg pts: 40	271
CorpLLC: Cat V: Mgmt & Control (D. Members and managers) – MEE: 0/45 exams (0%)	272
CorpLLC: Cat VI: Fiduciary Duties (A. Directors, officers, and shareholders) – MEE: 27/45 exams (60%) Avg pts: 30	274
CorpLLC: Cat VI: Fiduciary Duties (B. Managers and members) – MEE: 0/45 exams (0%)	278
CorpLLC: Cat VII: Close Corps (A. Share transfer restrictions) – MEE: 0/45 exams (0%)	279
CorpLLC: Cat VII: Close Corps (B. Special agreements allocating authority) – MEE: 0/45 exams (0%)	280
CorpLLC: Cat VII: Close Corps (C. Resolutions of disputes and deadlocks) – MEE: 0/45 exams (0%)	280
CorpLLC: Cat VII: Close Corps (D. Option or buy/sell agreements) – MEE: 0/45 exams (0%)	280
CorpLLC: Cat VIII: Corp & LLC Structure (A. Amendments) – MEE: 0/45 exams (0%)	281
CorpLLC: Cat VIII: Corp & LLC Structure (B. Mergers and consolidations) – MEE: 0/45 exams (0%)	282
CorpLLC: Cat VIII: Corp & LLC Structure (C. Sales of substantially all assets) – MEE: 3/45 exams (7%) Avg pts: 25	283
CorpLLC: Cat VIII: Corp & LLC Structure (D. Recapitalizations) – MEE: 0/45 exams (0%)	284
CorpLLC: Cat VIII: Corp & LLC Structure (E. Exchanges of securities) – MEE: 0/45 exams (0%)	284
CorpLLC: Cat VIII: Corp & LLC Structure (F. Dissolution of organization) – MEE: 4/45 exams (9%) Avg pts: 30	284
CorpLLC: Cat IX: S&H/Member Litigation (A. Direct litigation) – MEE: 5/45 exams (11%) Avg pts: 30	286
CorpLLC: Cat IX: S&H/Member Litigation (B. Derivative litigation) – MEE: 8/45 exams (18%) Avg pts: 25	287
CorpLLC: Cat IX: S&H/Member Litigation (C. Class litigation) – MEE: 0/45 exams (0%)	288
SecTrans: Cat I: General UCC Principles (A. Rules of construction) – MEE: 0/45 exams (0%)	289
SecTrans: Cat I: General UCC Principles (B. General definitions) – MEE: 1/45 exams (2%) Avg pts: 25	289
SecTrans: Cat I: General UCC Principles (C. General Rules) – MEE: 0/45 exams (0%)	290
SecTrans: Cat II: Definitions (A. Subject matter of Article 9) – MEE: 0/45 exams (0%)	290
SecTrans: Cat II: Definitions (B. Perfection in multiple state trans) – MEE: 0/45 exams (0%)	291
SecTrans: Cat II: Definitions (C. Excluded transactions) – MEE: 0/45 exams (0%)	291
SecTrans: Cat II: Definitions (D. Definitions) – MEE: 8/45 exams (18%) Avg pts: 35	291
SecTrans: Cat II: Definitions (E. Classification of goods) – MEE: 18/45 exams (40%) Avg pts: 25	293
SecTrans: Cat II: Definitions (F. Including sufficiency of description) – MEE: 2/45 exams (4%) Avg pts: 25	294
SecTrans: Cat II: Definitions (G. Art 2 security interests) – MEE: 1/45 exams (2%) Avg pts: 30	295
SecTrans: Cat II: Definitions (H. Priority of consignments) – MEE: 3/45 exams (7%) Avg pts: 35	295
SecTrans: Cat III: Validity of Sec Agmts (A. Title to collateral immaterial) – MEE: 3/45 exams (7%) Avg pts: 30	296
SecTrans: Cat III: Validity of Sec Agmts (B. Enforceability) – MEE: 13/45 exams (29%) Avg pts: 30	296
SecTrans: Cat III: Validity of Sec Agmts (C. After-acquired property/future advances) – MEE: 7/45 exams (16%) Avg pts: 35	297
SecTrans: Cat III: Validity of Sec Agmts (D. Use/disposition of collateral by debtor) – MEE: 2/45 exams (4%) Avg pts: 20	298
SecTrans: Cat III: Validity of Sec Agmts (E. Collateral in secured party possession) – MEE: 1/45 exams (2%) Avg pts: 25	299
SecTrans: Cat III: Validity of Sec Agmts (F. Request for accounting) – MEE: 0/45 exams (0%)	299
SecTrans: Cat IV: Rights of 3rd Parties (A. Priority over unperfected SIs) – MEE: 11/45 exams (24%) Avg pts: 25	299
SecTrans: Cat IV: Rights of 3rd Parties (B. Filing & perfection & assmts) – MEE: 23/45 exams (51%) Avg pts: 30	301
SecTrans: Cat IV: Rights of 3rd Parties (C. Protection of buyers) – MEE: 10/45 exams (22%) Avg pts: 30	304
SecTrans: Cat IV: Rights of 3rd Parties (D. Priority of liens arising by law) – MEE: 1/45 exams (2%) Avg pts: 60	305
SecTrans: Cat IV: Rights of 3rd Parties (E. Alienability of debtor's rights) – MEE: 0/45 exams (0%)	305
SecTrans: Cat IV: Rights of 3rd Parties (F. Priority of conflicting SI) – MEE: 16/45 exams (36%) Avg pts: 35	305
SecTrans: Cat IV: Rights of 3rd Parties (G. Fixtures) – MEE: 3/45 exams (7%) Avg pts: 40	307
SecTrans: Cat IV: Rights of 3rd Parties (H. Accessions; commingling) – MEE: 0/45 exams (0%)	308
SecTrans: Cat IV: Rights of 3rd Parties (I. Subordination) – MEE: 0/45 exams (0%)	309
SecTrans: Cat IV: Rights of 3rd Parties (J. Defenses vs assignee) – MEE: 0/45 exams (0%)	309
SecTrans: Cat IV: Rights of 3rd Parties (K. Termination/collateral rel) – MEE: 1/45 exams (2%) Avg pts: 35	310
SecTrans: Cat V: Default (A. Rights and remedies on default) – MEE: 0/45 exams (0%)	310
SecTrans: Cat V: Default (B. Debtor's rights) – MEE: 14/45 exams (31%) Avg pts: 25	313
AgentPart: Cat I: Agency (A. Creation) – MEE: 4/45 exams (9%) Avg pts: 30	315
AgentPart: Cat I: Agency (B. Types) – MEE: 6/45 exams (13%) Avg pts: 30	315
AgentPart: Cat I: Agency (C. Termination) – MEE: 0/45 exams (0%)	316
AgentPart: Cat II: Power of Agent (A. Authority) – MEE: 23/45 exams (51%) Avg pts: 30	316
AgentPart: Cat II: Power of Agent (B. Apparent authority) – MEE: 23/45 exams (51%) Avg pts: 30	318
AgentPart: Cat II: Power of Agent (C. Inherent agency power) – MEE: 4/45 exams (9%) Avg pts: 40	320
AgentPart: Cat III: Prin. Vicarious Liab (A. Vicarious liab) – MEE: 5/45 exams (11%) Avg pts: 30	321
AgentPart: Cat IV: P&A Fiduciary Duties (A. Duty of care) – MEE: 1/45 exams (2%) Avg pts: 30	322
AgentPart: Cat IV: P&A Fiduciary Duties (B. Duty of loyalty) – MEE: 2/45 exams (4%) Avg pts: 30	322
AgentPart: Cat IV: P&A Fiduciary Duties (C. Duty of obedience) – MEE: 0/45 exams (0%)	323
AgentPart: Cat V: Partnership Creation (A. General partnerships) – MEE: 7/45 exams (16%) Avg pts: 35	323
AgentPart: Cat V: Partnership Creation (B. Limited partnerships) – MEE: 0/45 exams (0%)	323
AgentPart: Cat V: Partnership Creation (C. Limited liab partnerships) – MEE: 3/45 exams (7%) Avg pts: 40	324

AgentPart: Cat VI: Partner Power/Liability (A. Power of partners) – MEE: 8/45 exams (18%) Avg pts: 30	325
AgentPart: Cat VI: Partner Power/Liability (B. Liability of partners) – MEE: 15/45 exams (33%) Avg pts: 25	325
AgentPart: Cat VII: Rights btwn Partners (A. Profits and losses) – MEE: 3/45 exams (7%) Avg pts: 25	327
AgentPart: Cat VII: Rights btwn Partners (B. Management and control) – MEE: 9/45 exams (20%) Avg pts: 30	327
AgentPart: Cat VII: Rights btwn Partners (C. Duty of care) – MEE: 3/45 exams (7%) Avg pts: 35	328
AgentPart: Cat VII: Rights btwn Partners (D. Duty of loyalty) – MEE: 8/45 exams (18%) Avg pts: 25	329
AgentPart: Cat VIII: Dissolution (A. Dissolution/winding up/termination) – MEE: 8/45 exams (18%) Avg pts: 35	330
AgentPart: Cat VIII: Dissolution (B. Rightful versus wrongful) – MEE: 6/45 exams (13%) Avg pts: 40	331
AgentPart: Cat VIII: Dissolution (C. GPs, LPs and LLPs) – MEE: 1/45 exams (2%) Avg pts: 35	332
AgentPart: Cat IX: Limited Partnership (A. Disclosure requirements) – MEE: 3/45 exams (7%) Avg pts: 30	333
AgentPart: Cat IX: Limited Partnership (B. The control limitation) – MEE: 5/45 exams (11%) Avg pts: 30	333
AgentPart: Cat IX: Limited Partnership (C. Economic rts of limited partners) – MEE: 1/45 exams (2%) Avg pts: 40	334
Trusts: Cat I: Trusts (A. Classification) – MEE: 0/45 exams (0%)	335
Trusts: Cat I: Trusts (B. Creation) – MEE: 10/45 exams (22%) Avg pts: 30	335
Trusts: Cat I: Trusts (C. Types of trusts) – MEE: 14/45 exams (31%) Avg pts: 30	337
Trusts: Cat I: Trusts (D. Alienability of trust interests) – MEE: 0/45 exams (0%)	339
Trusts: Cat I: Trusts (E. Protective trusts) – MEE: 13/45 exams (29%) Avg pts: 30	339
Trusts: Cat I: Trusts (F. Powers of invasion) – MEE: 0/45 exams (0%)	341
Trusts: Cat I: Trusts (G. Modification) – MEE: 11/45 exams (24%) Avg pts: 30	342
Trusts: Cat I: Trusts (H. Termination) – MEE: 8/45 exams (18%) Avg pts: 25	344
Trusts: Cat I: Trusts (I. Powers and duties of trustees) – MEE: 22/45 exams (49%) Avg pts: 35	345
Trusts: Cat II: Future Interests (A. Reversions/Remainders/Executory Interest) – MEE: 1/45 exams (2%) Avg pts: 35	348
Trusts: Cat II: Future Interests (B. Life estates and terms of years) – MEE: 0/45 exams (0%)	349
Trusts: Cat II: Future Interests (C. Vested and contingent interests) – MEE: 3/45 exams (7%) Avg pts: 25	349
Trusts: Cat II: Future Interests (D. Powers of appointment) – MEE: 12/45 exams (27%) Avg pts: 25	350
Trusts: Cat II: Future Interests (E. Acceleration of future interests) – MEE: 0/45 exams (0%)	352
Trusts: Cat II: Future Interests (F. Rule Against Perpetuities) – MEE: 4/45 exams (9%) Avg pts: 25	353
Trusts: Cat III: Construction Problems (A. Survivorship problems) – MEE: 4/45 exams (9%) Avg pts: 25	353
Trusts: Cat III: Construction Problems (B. Gifts to classes) – MEE: 15/45 exams (33%) Avg pts: 35	354
Trusts: Cat III: Construction Problems (C. Gifts to heirs) – MEE: 0/45 exams (0%)	356
Trusts: Cat III: Construction Problems (D. Doctrine of Worthier Title) – MEE: 0/45 exams (0%)	356
Trusts: Cat III: Construction Problems (E. Gifts to children and issue) – MEE: 0/45 exams (0%)	356
Trusts: Cat III: Construction Problems (F. Death without issue) – MEE: 0/45 exams (0%)	357
Trusts: Cat III: Construction Problems (G. Gifts by implication) – MEE: 0/45 exams (0%)	357
Conflict: Cat I: Domicile (A. Meaning and legal consequences) – MEE: 2/45 exams (4%) Avg pts: 25	359
Conflict: Cat I: Domicile (B. State's law by which determined) – MEE: 0/45 exams (0%)	359
Conflict: Cat II: Jurisdiction of Courts (A. Types of jurisdiction) – MEE: 4/45 exams (9%) Avg pts: 20	359
Conflict: Cat II: Jurisdiction of Courts (B. Bases of jurisdiction) – MEE: 4/45 exams (9%) Avg pts: 35	360
Conflict: Cat II: Jurisdiction of Courts (C. Notice and opportunity to be heard) – MEE: 0/45 exams (0%)	361
Conflict: Cat II: Jurisdiction of Courts (D. Limits on exercise of jurisdiction) – MEE: 4/45 exams (9%) Avg pts: 35	361
Conflict: Cat III: Choice of Law (A. Basic concepts) – MEE: 0/45 exams (0%)	362
Conflict: Cat III: Choice of Law (B. Choice of law theories) – MEE: 0/45 exams (0%)	362
Conflict: Cat III: Choice of Law (C. Application in specific areas) – MEE: 10/45 exams (22%) Avg pts: 30	364
Conflict: Cat III: Choice of Law (D. Defenses vs application of foreign law) – MEE: 0/45 exams (0%)	366
Conflict: Cat III: Choice of Law (E. Constitutional limitations) – MEE: 0/45 exams (0%)	367
Conflict: Cat III: Choice of Law (F. Federal-state conflicts) – MEE: 5/45 exams (11%) Avg pts: 30	367
Conflict: Cat IV: Other States Judgments (A. Full faith and credit) – MEE: 0/45 exams (0%)	368
Conflict: Cat IV: Other States Judgments (B. Effect: claim and issue preclusion) – MEE: 0/45 exams (0%)	368
Conflict: Cat IV: Other States Judgments (C. Defenses to recognition or enforcement) – MEE: 0/45 exams (0%)	369
Conflict: Cat IV: Other States Judgments (D. Family law judgments) – MEE: 2/45 exams (4%) Avg pts: 20	370

CivPro: Cat I: Jurisdiction (A. Federal SMJ) – MBE: 1-2 Qs – MEE: 40/45 exams (89%) Avg pts: 30

1. Overview

- a. **Jurisdiction** – the power of a court to adjudicate particular types of claims
- b. To initiate a lawsuit against a defendant, there must be (1) subject matter jurisdiction (SMJ); (2) personal jurisdiction (PJ); and (3) service of process/notice.
 - (i) Any person (including the court) can raise challenges to SMJ at any time (if a case is improperly brought before the court, it is being heard in violation of the Constitution and can be dismissed at any time, even on appeal).
 - (ii) Even if fed court makes a mistaken judgment on SMJ or a party fails to challenge SMJ, it does not waive the inquiry.
- c. Fed courts are courts of limited jurisdiction and can entertain only certain types of suits – the 2 main types of fed court cases: (1) Fed question; OR (2) Diversity (including alienage)

2. Federal Question (FQ) – Art III permits fed cts to hear all cases arising under laws of the US Constitution

- a. If a claim turns on a substantial question of federal law than subject matter jurisdiction exists
 - (i) Complaint must show a substantial federal right or interest – citizenship is irrelevant, & there's NO amount in controversy requirement because P is alleging a fed right
 - (ii) Well-pleaded complaint rule – the federal question must be asserted in the complaint – ask whether P is enforcing a fed right. D's claims in answer or counterclaim are irrelevant.
- b. BUT if the federal law in question does not provide a remedy and was not intended to provide a claim, then no FQ jux
- c. Some FQ cases have exclusive fed jurisdiction
- d. If state law creates a cause of action, fed court can still exercise FQ jux if the complaint raises a real and substantial issue of fed law & the outcome necessarily depends on resolving this fed issue.

3. Diversity – Amount in controversy *must exceed 75K*, AND the action must be between (i) *citizens of different state*, OR (ii) *a citizen of a state & a citizen or subject of a foreign country* (“alien”)

- a. **Complete diversity rule** – there is no diversity of citizenship if *any P is a citizen of the same state as any D* (though, there can be co-Pls or co-Def from the same state)
 - (a) Test for diversity **when the case is filed** – subsequent change in a party's citizenship is irrelevant
- b. **Individuals** – citizen if **domiciled** in a state, which is established by 2 concurrent factors:
 - (i) *Presence in state at some point* WITH
 - (ii) *Intent* (subjective) to make it a permanent or fixed home
 - (a) NOTE – an alien admitted to the US for *permanent residence* is treated as a citizen of the state in which he is domiciled
 - (b) An American domiciled in France is not a *citizen of a U.S. state* (because not domiciled)
 - (c) Determining domicile is primarily a finding of fact, which means it can be reversed on appeal if it is **clearly erroneous**.
- c. **Corporations** – citizenship equals: (i) all states where **incorporated**, AND (ii) the one state where the company has its **principal place of business** (PPB) (corporation, unlike a natural person, can be a citizen of more than one state at a time)
 - (i) PPB is determined in 2 ways – (i) *nerve center* (headquarters – where decisions are made) & (ii) *muscle center* (major production or service activity)
 - (ii) Generally, courts consider nerve center as the PPB
- d. **Unincorporated associations** – look to the citizenship/domicile of *all* members (for partnerships, that includes *general & limited partners*; so a partnership can be a citizen of all 50 states), so if any partner lives in the same state as the other party, diversity is defeated
 - (i) NOTE – *LLC treated as unincorporated association so LLC is citizen of all states its members are citizens*
- e. **Decedents, minors, & incompetents** – look to *their* citizenship, NOT the citizenship of their representative
 - (i) the legal representative is deemed to be a citizen only of the same state as the decedent/infant/incompetent
 - (ii) You can't create diversity by appointing a representative who has a different citizenship than the decedent/infant/incompetent

4. Amount in controversy

- a. **Good faith allegation** that the claim in the complaint exceeds 75K – unless it is “*clear to a legal certainty*” that P cannot recover more than 75K
 - NOTE: if P ultimately recovers less than 75K, jurisdiction is OK, but he *may be liable for costs*
- b. **Aggregation** – Allowed where P must add 2 or more claims to meet the amount in controversy requirement; as long as there's 1 P & 1D, P can combine the claims, even if they're totally unrelated, BUT NOT allowed when two or more P's have two claims against two or more D's.
- c. **Valuing injunctions** – there is a split of authority (argue in both ways)
 - (i) **Majority view** (P's viewpoint) – does the encroachment hurt P by more than 75K?
 - (ii) **Minority view** (D's viewpoint) – would it cost D more than 75K to comply w/the injunction?

5. **Exclusions** – even if diversity of citizenship is met, fed courts will NOT hear cases involving:
 - a. Issuance of a divorce; alimony or child custody decrees; probate a decedent’s estate
 - EXCEPT: *Fed courts have jux to entertain suits in favor of claimants against a decedent's estate to establish their claims, so long as the fed court does not interfere with the probate proceedings*
 - b. Collusion – no subject matter jurisdiction when diversity “has been improperly or collusively made or joined to invoke jurisdiction” (watch for an assignment to create diversity)
6. **Supplemental Jurisdiction:**
 - a. For every single claim joined in fed court, *must have its own basis* of subject matter jurisdiction
 - (i) Always ask whether a claim is supported by *diversity/alienage* OR *FQ* jurisdiction –
 - (ii) If not, try *supplemental jurisdiction*
 - b. Allows fed court to entertain claims over which it would have no independent basis – must have at least ONE claim that satisfies diversity/alienage or FQ, so the case is in fed court:
 - (i) Claims must arise from a common nucleus of operative fact
 - EXAMPLE: A cross-claim that arises out of the same transaction/occurrence may be asserted by one D against another D without regard to the amt in controversy or citizenship of the parties to the cross-claim as long as the court has SMJ.
 - (ii) In *diversity actions*, if one P satisfies the 75k amt in controversy, ct may exercise *supplemental jurisdiction* over related claims by other Ps, even if those claims are for less than 75k
 - (iii) Court’s discretion – even if the supplemental jurisdiction requirements are satisfied, the court has discretion NOT to hear the supplemental claim if:
 - (a) FQ is dismissed early in the proceedings (usually before trial); OR
 - (b) State law claim is complex or state law issues would predominate
 - c. Two Types of Supplemental Jux
 - (i) **“Pendent”** – claims joined by **P ONLY** in a FQ case (do not care if a different party is involved)
 - (ii) **“Ancillary”** – claims joined by **Anyone BUT Plaintiff** in any kind of case (diversity or FQ)
7. **Removal – One-Way Street – D can only remove a pending state court action to federal court**
 - a. Allows **Ds ONLY** to have case, first filed in state court, to “remove” to the fed court embracing the state ct where originally filed to the fed court embracing the state ct where originally filed
 - (i) If case originates in fed court, there is no ability for D to remove case from fed ct to state ct.
 - b. **General test** – case is removable if there’s fed subject matter jurisdiction (diversity and FQ jux)
 - (i) *Unanimity of Ds*: If multiple Ds, *all Ds must agree to remove*, BUT a single D can remove if there is a separate and independent federal claim against the D.
 - (ii) **P CANNOT REMOVE** even if D counterclaims against P (making P the D on the counterclaim)
 - c. **Special rules for diversity cases ONLY** (not FQ cases)
 - (i) NO removal **if any D is citizen of the forum** where P brings the case
 - (ii) NO removal more than 1 year after case has been filed in state court
 - d. **Timing** – must remove within **30 days** of service of process of the first removable pleading, OR D can file notice of removal within **30 days** of service of an amended pleading, motion, order, or other court paper that shows that a non-removable case is in fact removable
 - e. **Procedure** – Removal petition is typically filed before D files either an answer to the complaint or motion to dismiss. D must file *notice of removal* (it’s not a motion) in fed court, setting forth grounds of removal; sign it (Rule 11); attach all docs served on D in the state action & copy to all adverse parties.
 - (i) *Answer* – if no answer was filed by D prior to petition for removal, D must answer within the longest of: (i) **21 days** after receiving initial pleading; (ii) **21 days** after service of initial pleading; or (iii) **7 days** after notice of removal is filed.
 - (ii) *If removal is improper* – P must move to remand to state court; within **30 days** if based on a defect other than subject matter jurisdiction (FQ never waived).
 - (iii) Court must remand *anytime it finds there is no fed jurisdiction*
 - f. **Waiving the right to remove:**
 - (i) D who files a *permissive counterclaim* in state court probably *waives the right to remove*
 - (ii) D who files a *compulsory counterclaim* in state court probably does NOT waive the right to remove

MEE Topic Summaries: Jurisdiction – Federal SMJ

2016-JUL-Q6-P2: (15%) Does the U.S. District Court for the District of State C have subject-matter jurisdiction over the woman’s Safety Act claim? The U.S. District Court has federal-question jurisdiction over the woman’s Safety Act claim.

2016-JUL-Q6-P3: (35%) Does the U.S. District Court for the District of State C have subject-matter jurisdiction over the woman’s state-law negligence claim? The U.S. District Court does not have diversity jurisdiction over the state-law negligence claim, but it may nonetheless hear the claim pursuant to its supplemental jurisdiction.

2015-JUL-Q2-P3: (20%) Does a federal district court have subject-matter jurisdiction over a complaint that seeks damages from a defendant for making false or misleading statements committed in violation of a federal statute? **The federal district court has subject-matter jurisdiction over the woman's claim because it arises under a federal statute.**

2015-FEB-Q5-P2: (35%) Are two corporations diverse for purposes of federal jurisdiction when they are incorporated and headquartered in different states but their main facilities are located in the same state, which is also the state of incorporation of one of the businesses? **The District Court has diversity jurisdiction over MedForms's breach of contract claim because the amount in controversy exceeds \$75,000 and MedForms and the company are citizens of different states.**

2013-JUL-Q1-P1: (10%) What requirements must be met for a federal court to have jurisdiction in a case based on diversity? **A federal court has jurisdiction of a complaint based on state law if the amount in controversy exceeds \$75,000 and there is complete diversity between the parties. Here, the amount-in-controversy requirement is satisfied.**

2013-JUL-Q1-P2: (35%) For purposes of diversity jurisdiction, is the woman a citizen of State B, where she maintains a home and conducts her farming business, or of State A, where she has lived for most of her life and to which she returns for several months each year, and which she calls "home"? **The woman is probably a citizen of State A. But an argument can be made that she has acquired a new domicile in State B and therefore has become a citizen of State B.**

2013-JUL-Q1-P3: (25%) For purposes of diversity jurisdiction, is the distributor a citizen of State A (where it has its food processing, warehousing, and distribution facilities), State B (where it has its corporate headquarters), and/or State C (where it is incorporated)? **The distributor is a citizen of both State C, where it is incorporated, and State B, where it has its principal place of business (i.e., where its corporate headquarters are located).**

2012-FEB-Q7-P1: (30%) Does a federal court have removal jurisdiction when the parties to the state action are diverse, the amount in controversy exceeds \$75,000, and the defendant is not from the state where the action was originally filed? **It was proper to remove the action from a state court in State A to the federal court in State A because that federal court would have had diversity jurisdiction over the case had it been filed there originally.**

2011-FEB-Q8-P3: (20%) Does a federal district court have independent subject-matter jurisdiction over a state law cross-claim for \$20,000 between two defendants who are citizens of the same state? **A federal district court would not have independent subject-matter jurisdiction over a state law cross-claim for \$20,000 between two defendants who are citizens of the same state because the claim does not arise under federal law, the claimants are not diverse, and the amount-in-controversy requirement for diversity cases is not satisfied.**

2011-FEB-Q8-P4: (20%) Does a federal district court have supplemental subject-matter jurisdiction over a state law cross-claim for \$20,000 between two defendants who are citizens of the same state? **A federal district court would have supplemental subject-matter jurisdiction over a state law cross-claim for \$20,000 between citizens of the same state as long as it is so related to the plaintiff's claim against the defendants, of which the court has original jurisdiction, that the claims form part of the "same case or controversy" under Article III of the Constitution.**

2010-JUL-Q7-P2: (35%) Does a federal district court have diversity jurisdiction when the plaintiff previously was domiciled in the defendant's state of citizenship and still returns there about once a month, but has moved to another state to work and may intend to stay there permanently? **Credit Union is a citizen of State A. As a result, complete diversity will exist if Paul is a domiciliary of State B. However, it is uncertain whether Paul is a domiciliary of State B or is still a domiciliary of State A. If Paul is a State B domiciliary, then there is diversity jurisdiction; Paul's claim satisfies the amount-in-controversy requirement.**

2010-JUL-Q7-P3: (30%) Does a federal district court have federal-question jurisdiction over a lawsuit when the plaintiff's complaint refers to a potentially relevant federal statute but denies the applicability of the statute? **Paul's assertion of a defense to the possible applicability of a federal statute does not create federal-question jurisdiction.**

2010-FEB-Q6-P1: (35%) Does a federal district court have diversity jurisdiction over an action between a plaintiff domiciled in one state and three defendants who are domiciled in another state when one of the defendants is a permanent resident alien and not a U.S. citizen? **The federal district court has diversity jurisdiction to hear these breach-of-contract claims because complete diversity of citizenship exists between the plaintiff and all of the defendants, and the amount-in-controversy requirement is met.**

2010-FEB-Q6-P2: (30%) Does a federal district court have diversity jurisdiction over a case that arises out of a surrogacy agreement but does not seek a divorce, alimony, or child custody decree? **Under the domestic relations exception, federal courts do not have authority to issue divorce, alimony, and child custody decrees. Here, the district court would retain jurisdiction to adjudicate the plaintiff's claims, because they raise contractual questions.**

2009-JUL-Q6-P1: (15%) What steps must be taken to effect removal from state to federal court? **The defendant begins the process of removal by filing a notice of removal in the federal court "for the district and division within which the state court action is pending." Removal is then accomplished by giving notice of the filing to all adverse parties and filing a copy of the notice of removal with the state court.**

2009-JUL-Q6-P3: (50%) If Ann's and Bill's claims remain joined, will the federal court have jurisdiction over the case? **The federal court will have subject matter jurisdiction over the removed case because Ann's claim is within the diversity jurisdiction of the court and Bill's claim, although it does not satisfy the amount-in-controversy requirement for diversity jurisdiction, is within the federal court's supplemental jurisdiction.**