

The following subject matter outline indicates the MEE's scope of coverage. The outline is not intended to list every aspect of a topic mentioned. Some questions may require analysis of more than one subject area. Although the test items for each MEE are developed from these categories, each topic is not necessarily tested on each examination.

Business Associations

Agency and Partnership

- I. Agency relationships**
 - A. Creation
 - B. Types
 - C. Termination
- II. Power of agent to bind principal**
 - A. Authority
 - B. Apparent authority
 - C. Inherent agency power
- III. Vicarious liability of principal for acts of agent**
- IV. Fiduciary duties between principal and agent**
 - A. Duty of care
 - B. Duty of loyalty
 - C. Duty of obedience
- V. Creation of partnerships**
 - A. General partnerships
 - B. Limited partnerships
 - C. Limited liability partnerships
- VI. Power and liability of partners**
- VII. Rights of partners among themselves**
 - A. Profits and losses
 - B. Management and control
 - C. Duty of care
 - D. Duty of loyalty
- VIII. Dissolution**
 - A. Distinguished from winding up and termination
 - B. Rightful versus wrongful
 - C. General partnerships, limited partnerships, or limited liability partnerships
- IX. Special rules concerning limited partnerships**
 - A. Disclosure requirements
 - B. The control limitation
 - C. Economic rights of limited partners

Corporations and Limited Liability Companies

- I. Formation of organizations**
 - A. Articles of incorporation
 - B. Bylaws
 - C. Articles of organization; certificates of formation
 - D. Operating agreements
- II. Pre-organization transactions**
 - A. Promoters: contracts and fiduciary duties
 - B. Subscriptions for shares
- III. Piercing the veil**
- IV. Financing the organization**
 - A. Sources of finance
 - B. Securities issuance and characteristics
 - C. Dividends and distributions
 - D. Redemptions and repurchases
- V. Management and control**
 - A. Shareholders
 - 1. Meetings: annual, notice, and quorum
 - 2. Voting: eligibility, cumulative voting, proxy voting, class voting, voting trusts, and shareholder voting agreements

Business Associations (continued)

- B. Directors
 - 1. Meetings: quorum and notice
 - 2. Action by written consent
 - 3. Action by committee
 - 4. Director's objections to actions
 - C. Officers
 - 1. Authority
 - 2. Officer's liability on corporate obligations
 - D. Members and managers
 - 1. Authority
 - 2. Liability
 - 3. Powers
- VI. Fiduciary duties**
- A. Directors, officers, and shareholders
 - B. Managers and members
- VII. Close corporations and special control devices**
- A. Share transfer restrictions
 - B. Special agreements allocating authority
 - C. Resolutions of disputes and deadlocks
 - D. Option or buy/sell agreements
- VIII. Organizational structure including relationships between parents and subsidiaries**
- A. Amendments
 - 1. Articles of incorporation and bylaws
 - 2. Articles of organization, certificates of formation, and operating agreements
 - B. Mergers and consolidations
 - C. Sales of substantially all assets
 - D. Recapitalizations
 - E. Exchanges of securities
 - F. Dissolution of organization
- IX. Shareholder and member litigation: direct, derivative, and class litigation**

Civil Procedure

NOTE: Examinees are to assume the application of (1) the Federal Rules of Civil Procedure as currently in effect and (2) the sections of Title 28 of the U.S. Code pertaining to trial and appellate jurisdiction, venue, and transfer.

- I. Jurisdiction and venue**
- A. Federal subject-matter jurisdiction (federal question, diversity, supplemental, and removal)
 - B. Personal jurisdiction
 - C. Service of process and notice
 - D. Venue, forum non conveniens, and transfer
- II. Law applied by federal courts**
- A. State law in federal court
 - B. Federal common law
- III. Pretrial procedures**
- A. Preliminary injunctions and temporary restraining orders
 - B. Pleadings and amended and supplemental pleadings
 - C. Rule 11
 - D. Joinder of parties and claims (including class actions)
 - E. Discovery (including e-discovery), disclosure, and sanctions
 - F. Adjudication without a trial
 - G. Pretrial conference and order
- IV. Jury trials**
- A. Right to jury trial
 - B. Selection and composition of juries
 - C. Requests for and objections to jury instructions
- V. Motions**
- A. Pretrial motions, including motions addressed to face of pleadings, motions to dismiss, and summary judgment motions
 - B. Motions for judgments as a matter of law (directed verdicts and judgments notwithstanding the verdict)
 - C. Posttrial motions, including motions for relief from judgment and for new trial

Civil Procedure (*continued*)

VI. Verdicts and judgments

- A. Defaults and dismissals
- B. Jury verdicts—types and challenges
- C. Judicial findings and conclusions
- D. Effect; claim and issue preclusion

VII. Appealability and review

- A. Availability of interlocutory review
- B. Final judgment rule
- C. Scope of review for judge and jury

Conflict of Laws

NOTE: Conflict of Laws issues are embedded in the other MEE topic areas. They do not appear as stand-alone questions.

I. Domicile

- A. Meaning and legal consequences
- B. State's law by which determined

II. Jurisdiction of courts

- A. Types of jurisdiction
 - 1. In personam
 - 2. In rem and quasi in rem
- B. Bases of jurisdiction
- C. Notice and opportunity to be heard
- D. Limits on exercise of jurisdiction
 - 1. Traditional limitations
 - a. Choice of forum by agreement
 - b. Fraud, force, and privilege
 - c. Forum non conveniens
 - 2. Constitutional limitations (due process)

III. Choice of law

- A. Basic concepts
 - 1. Legal characterization
 - 2. Renvoi
 - 3. Depecage
 - 4. Proof of foreign law
- B. Choice of law theories
 - 1. Traditional “vested rights” approach
 - 2. Contemporary “policy” approaches (including the interest analysis approach and the substantial relationship approach of Restatement (Second) of Conflict of Laws)
- C. Application in specific areas
 - 1. Torts
 - 2. Contracts
 - 3. Property
 - 4. Corporations
 - 5. Family law
 - 6. Substance vs. procedure
- D. Defenses against application of foreign law
 - 1. Local public policy
 - 2. Penal laws
 - 3. Revenue laws
- E. Constitutional limitations
 - 1. Due process
 - 2. Full faith and credit
 - 3. Privileges and immunities
- F. Federal-state conflicts
 - 1. Federal supremacy
 - 2. *Erie* doctrine

IV. Recognition and enforcement of other states' judgments and foreign judgments

- A. Full faith and credit
- B. Effect: claim and issue preclusion
- C. Defenses to recognition or enforcement
- D. Family law judgments

Constitutional Law

NOTE: The terms "Constitution," "constitutional," and "unconstitutional" refer to the federal Constitution unless indicated otherwise.

I. The nature of judicial review

- A. Organization and relationship of state and federal courts in a federal system
- B. Jurisdiction
 - 1. Congressional power to define and limit
 - 2. The Eleventh Amendment and state sovereign immunity
- C. Judicial review in operation
 - 1. The "case or controversy" requirement, including the prohibition on advisory opinions, standing, ripeness, and mootness
 - 2. The "adequate and independent state ground"
 - 3. Political questions and justiciability

II. The separation of powers

- A. The powers of Congress
 - 1. Commerce, taxing, and spending powers
 - 2. War, defense, and foreign affairs powers
 - 3. Power to enforce the 13th, 14th, and 15th Amendments
 - 4. Other powers
- B. The powers of the president
 - 1. As chief executive, including the "take care" clause
 - 2. As commander in chief
 - 3. Treaty and foreign affairs powers
 - 4. Appointment and removal of officials
- C. Federal interbranch relationships
 - 1. Congressional limits on the executive
 - 2. The presentment requirement and the president's power to veto or to withhold action
 - 3. Nondelegation doctrine
 - 4. Executive, legislative, and judicial immunities

III. The relation of nation and states in a federal system

- A. Intergovernmental immunities
 - 1. Federal immunity from state law
 - 2. State immunity from federal law, including the 10th Amendment
- B. Federalism-based limits on state authority
 - 1. Negative implications of the commerce clause
 - 2. Supremacy clause and preemption
 - 3. Authorization of otherwise invalid state action

IV. Individual rights

- A. State action
- B. Due process
 - 1. Substantive due process
 - a. Fundamental rights
 - b. Other rights and interests
 - 2. Procedural due process
- C. Equal protection
 - 1. Fundamental rights
 - 2. Classifications subject to heightened scrutiny
 - 3. Rational basis review
- D. Takings
- E. Other protections, including the privileges and immunities clauses, the contracts clause, unconstitutional conditions, bills of attainder, and ex post facto laws
- F. First Amendment freedoms
 - 1. Freedom of religion and separation of church and state
 - a. Free exercise
 - b. Establishment
 - 2. Freedom of expression
 - a. Content-based regulation of protected expression
 - b. Content-neutral regulation of protected expression
 - c. Regulation of unprotected expression
 - d. Regulation of commercial speech
 - e. Regulation of, or impositions upon, public school students, public employment, licenses, or benefits based upon exercise of expressive or associational rights
 - f. Regulation of expressive conduct
 - g. Prior restraint, vagueness, and overbreadth
 - 3. Freedom of the press
 - 4. Freedom of association

Contracts

NOTE: Examinees are to assume that the Official Text of Articles 1 and 2 of the Uniform Commercial Code has been adopted and is in effect.

I. Formation of contracts

- A. Mutual assent (including offer and acceptance, and unilateral, bilateral, and implied-in-fact contracts)
- B. Indefiniteness and absence of terms
- C. Consideration (bargained-for exchange)
- D. Obligations enforceable without a bargained-for exchange (including reliance and restitution)
- E. Modification of contracts

II. Defenses to enforceability

- A. Incapacity to contract
- B. Duress and undue influence
- C. Mistake and misunderstanding
- D. Fraud, misrepresentation, and nondisclosure
- E. Illegality, unconscionability, and public policy
- F. Statute of frauds

III. Contract content and meaning

- A. Parol evidence
- B. Interpretation
- C. Omitted and implied terms

IV. Performance, breach, and discharge

- A. Conditions (express and constructive)
- B. Excuse of conditions
- C. Breach (including material and partial breach, and anticipatory repudiation)
- D. Obligations of good faith and fair dealing
- E. Express and implied warranties in sale-of-goods contracts
- F. Other performance matters (including cure, identification, notice, and risk of loss)
- G. Impossibility, impracticability, and frustration of purpose
- H. Discharge of duties (including accord and satisfaction, substituted contract, novation, rescission, and release)

V. Remedies

- A. Expectation interest (including direct, incidental, and consequential damages)
- B. Causation, certainty, and foreseeability
- C. Liquidated damages and penalties, and limitation of remedies
- D. Avoidable consequences and mitigation of damages
- E. Rescission and reformation
- F. Specific performance and injunction
- G. Reliance and restitution interests
- H. Remedial rights of breaching parties

VI. Third-party rights

- A. Third-party beneficiaries
- B. Assignment of rights and delegation of duties

Criminal Law and Procedure

I. Homicide

- A. Intended killings
 - 1. Premeditation, deliberation
 - 2. Provocation
- B. Unintended killings
 - 1. Intent to injure
 - 2. Reckless and negligent killings
 - 3. Felony murder
 - 4. Misdemeanor manslaughter

II. Other crimes

- A. Theft and receiving stolen goods
- B. Robbery

Criminal Law and Procedure (continued)

- C. Burglary
 - D. Assault and battery
 - E. Rape; statutory rape
 - F. Kidnapping
 - G. Arson
 - H. Possession offenses
- III. Inchoate crimes; parties**
- A. Inchoate offenses
 - 1. Attempts
 - 2. Conspiracy
 - 3. Solicitation
 - B. Parties to crime
- IV. General principles**
- A. Acts and omissions
 - B. State of mind
 - 1. Required mental state
 - 2. Strict liability
 - 3. Mistake of fact or law
 - C. Responsibility
 - 1. Mental disorder
 - 2. Intoxication
 - D. Causation
 - E. Justification and excuse
 - F. Jurisdiction
- V. Constitutional protection of accused persons**
- A. Arrest, search and seizure
 - B. Confessions and privilege against self-incrimination
 - C. Lineups and other forms of identification
 - D. Right to counsel
 - E. Fair trial and guilty pleas
 - F. Double jeopardy
 - G. Cruel and unusual punishment
 - H. Burdens of proof and persuasion
 - I. Appeal and error

Evidence

NOTE: All Evidence questions should be answered according to the Federal Rules of Evidence, as currently in effect.

- I. Presentation of evidence**
- A. Introduction of evidence
 - 1. Requirement of personal knowledge
 - 2. Refreshing recollection
 - 3. Objections and offers of proof
 - 4. Lay opinions
 - 5. Competency of witnesses
 - 6. Judicial notice
 - 7. Roles of judge and jury
 - 8. Limited admissibility
 - B. Presumptions
 - C. Mode and order
 - 1. Control by court
 - 2. Scope of examination
 - 3. Form of questions
 - 4. Exclusion of witnesses
 - D. Impeachment, contradiction, and rehabilitation
 - 1. Inconsistent statements and conduct
 - 2. Bias and interest
 - 3. Conviction of crime
 - 4. Specific instances of conduct
 - 5. Character for truthfulness
 - 6. Ability to observe, remember, or relate accurately
 - 7. Impeachment of hearsay declarants
 - 8. Rehabilitation of impeached witnesses
 - 9. Contradiction
 - E. Proceedings to which evidence rules apply

Evidence (continued)

II. Relevancy and reasons for excluding relevant evidence

- A. Probative value
 - 1. Relevancy
 - 2. Exclusion for unfair prejudice, confusion, or waste of time
- B. Authentication and identification
- C. Character and related concepts
 - 1. Admissibility of character
 - 2. Methods of proving character
 - 3. Habit and routine practice
 - 4. Other crimes, acts, transactions, and events
 - 5. Prior sexual misconduct of a defendant
- D. Expert testimony
 - 1. Qualifications of witnesses
 - 2. Bases of testimony
 - 3. Ultimate issue rule
 - 4. Reliability and relevancy
 - 5. Proper subject matter for expert testimony
- E. Real, demonstrative, and experimental evidence

III. Privileges and other policy exclusions

- A. Spousal immunity and marital communications
- B. Attorney-client and work product
- C. Physician/psychotherapist-patient
- D. Other privileges
- E. Insurance coverage
- F. Remedial measures
- G. Compromise, payment of medical expenses, and plea negotiations
- H. Past sexual conduct of a victim

IV. Writings, recordings, and photographs

- A. Requirement of original
- B. Summaries
- C. Completeness rule

V. Hearsay and circumstances of its admissibility

- A. Definition of hearsay
 - 1. What is hearsay
 - 2. Prior statements by witness
 - 3. Statements attributable to party-opponent
 - 4. Multiple hearsay
- B. Present sense impressions and excited utterances
- C. Statements of mental, emotional, or physical condition
- D. Statements for purposes of medical diagnosis and treatment
- E. Past recollection recorded
- F. Business records
- G. Public records and reports
- H. Learned treatises
- I. Former testimony; depositions
- J. Statements against interest
- K. Other exceptions to the hearsay rule
- L. Right to confront witnesses

Family Law

I. Getting married

- A. Controversies arising in anticipation of marriage
- B. Limitations on who may marry
- C. Procedural requirements
- D. State of mind requirements
- E. Common law marriage and other curative or mitigative doctrines
- F. Premarital contracts

II. Being married

- A. Rights and responsibilities of spouses
- B. Family privacy
 - 1. Common law doctrine
 - 2. Constitutional privacy
 - 3. Reproductive choices
 - 4. Evidentiary privileges
- C. Remedies for tortious interference with the marital relationship

Family Law (*continued*)

III. Separation, divorce, dissolution, and annulment

- A. Grounds and defenses
- B. Jurisdiction and recognition of decrees
- C. Preliminary, interlocutory, and final orders
- D. Division of property
- E. Maintenance or alimony
- F. Child support
- G. Modification of maintenance and child support
- H. Enforcement of awards
- I. Mediation and other alternative means of dispute resolution
- J. Separation agreements

IV. Child custody

- A. Standards for decision
- B. Visitation
- C. Joint custody
- D. Enforcement
- E. Procedural issues
 - 1. Jurisdiction to decide custody
 - 2. Child's preference
 - 3. Counsel for the child
- F. Modification
- G. Mediation and other alternative means of dispute resolution

V. Rights of unmarried cohabitants

- A. Rights of cohabitants inter se
- B. Unmarried parents and their children: illegitimacy
 - 1. Constitutional limits on discrimination
 - a. Unfavorable treatment of illegitimate children
 - b. Unfavorable treatment of unmarried parents
 - 2. Presumption of legitimacy
 - 3. Establishing paternity
 - 4. Legitimation

VI. Parent, child, and state

- A. Legal disabilities of childhood
- B. Duty to support
- C. Intra-family immunities
- D. Claims for loss of consortium
- E. Parent's right to control child's upbringing and limitations on parental autonomy
- F. Custodial disputes between parents and third parties

VII. Adoption

- A. Jurisdiction
- B. Agency versus independent placements
- C. Parental consent

VIII. Alternatives to adoption

- A. Artificial insemination by donor
- B. Surrogacy arrangements
- C. In vitro fertilization, gestational surrogacy, and embryo transplantation

Real Property

I. Ownership of real property

- A. Present estates and future interests
 - 1. Present estates
 - a. Fees simple
 - b. Defeasible fees
 - c. Life estates
 - 2. Future interests
 - a. Reversions
 - b. Remainders, vested and contingent
 - c. Executory interests
 - d. Possibilities of reverter, powers of termination
 - e. Rules affecting these interests (including survivorship, class gifts, waste, and cy pres)

Real Property (continued)

- B. Cotenancy
 - 1. Types: tenancy in common and joint tenancy
 - 2. Rights and obligations of cotenants
 - a. Partition
 - b. Severance
 - c. Relations among cotenants
 - C. Landlord-tenant law
 - 1. Types of tenancies
 - 2. Possession and rent
 - 3. Transfers by landlord or tenant
 - 4. Termination (including surrender, mitigation of damages, anticipatory breach, and security deposits)
 - 5. Habitability and suitability
 - D. Special problems
 - 1. Rule against perpetuities: common law rule and statutory reforms
 - 2. Alienability, descendibility, and devisability of present and future interests
 - 3. Fair housing/discrimination
 - 4. Conflicts of law related to disputes involving real property
- II. Rights in real property**
- A. Restrictive covenants
 - 1. Nature and type
 - 2. Creation
 - 3. Scope
 - 4. Transfer
 - 5. Termination
 - 6. Property owners' associations and common interest ownership communities
 - B. Easements, profits, and licenses
 - 1. Nature and type
 - 2. Methods of creation
 - a. Express
 - b. Implied
 - c. Prescription
 - 3. Scope and apportionment
 - 4. Transfer
 - 5. Termination
 - C. Fixtures
 - D. Zoning (fundamentals other than regulatory taking)
 - 1. Zoning laws
 - 2. Protection of pre-existing property rights
 - 3. Rezoning and other zoning changes
- III. Real estate contracts**
- A. Real estate brokerage
 - B. Creation and construction
 - 1. Statute of frauds and exceptions
 - 2. Essential terms
 - 3. Time for performance
 - 4. Remedies for breach
 - C. Marketability of title
 - D. Equitable conversion (including risk of loss)
 - E. Options and rights of first refusal
 - F. Fitness and suitability
 - G. Merger
- IV. Mortgages/security devices**
- A. Types of security devices
 - 1. Mortgages (including deeds of trust)
 - a. In general
 - b. Purchase money mortgages
 - c. Future advance mortgages
 - 2. Installment land contracts
 - 3. Absolute deeds as security
 - B. Security relationships
 - 1. Necessity and nature of obligation
 - 2. Mortgage theories: title, lien, and intermediate
 - 3. Rights and duties prior to foreclosure
 - 4. Right to redeem and clogging the equity of redemption

Real Property (continued)

- C. Transfers
 - 1. By mortgagor
 - a. Assumption and transfer subject to
 - b. Rights and obligations
 - c. Application of subrogation and suretyship principles
 - d. Restrictions on transfer (including due-on-sale clauses)
 - 2. By mortgagee
 - D. Discharge of the mortgage
 - 1. Payment (including prepayment)
 - 2. Deed in lieu of foreclosure
 - E. Foreclosure
 - 1. Types
 - 2. Acceleration
 - 3. Parties to the proceeding
 - 4. Deficiency and surplus
 - 5. Redemption after foreclosure
- V. Titles**
- A. Adverse possession
 - B. Transfer by deed
 - 1. Requirements for deed
 - 2. Types of deeds (including covenants for title)
 - 3. Drafting, review, and negotiation of closing documents
 - 4. Persons authorized to execute documents
 - C. Transfer by operation of law and by will
 - 1. In general
 - 2. Ademption
 - 3. Exoneration
 - 4. Lapse
 - D. Title assurance systems
 - 1. Recording acts
 - a. Types
 - b. Indexes
 - c. Chain of title
 - d. Hidden risks (e.g., undelivered or forged deed)
 - 2. Title insurance
 - E. Special problems (including estoppel by deed and judgment and tax liens)

Secured Transactions

NOTE: Examinees are to assume that the Official Texts of Articles 1 and 9 of the Uniform Commercial Code have been adopted and are in effect.

- I. General UCC principles**
 - A. Rules of construction and application (§ 1-101, *et seq.*)
 - B. General definitions and principles of interpretation (§ 1-201, *et seq.*)
 - C. General Rules (§ 1-301, *et seq.*)
- II. Applicability and definitions (§ 9-101, *et seq.*)**
 - A. Subject matter of Article 9 (§ 9-109)
 - B. Perfection of security interests in multiple state transactions (§ 9-301)
 - C. Excluded transactions (§ 9-109)
 - D. Definitions: “account”; “purchase money security interest”; “control” (§§ 9-102 through 9-107)
 - E. Classification of goods (§ 9-102)
 - F. Including sufficiency of description (§ 9-108)
 - G. Including security interests arising under Article 2 (§ 9-110)
 - H. Priority of consignments (§§ 9-103, 9-324)
- III. Validity of security agreements and rights of parties (§ 9-201, *et seq.*)**
 - A. Title to collateral immaterial (§ 9-202)
 - B. Enforceability (§ 9-203)
 - C. After-acquired property; future advances (§ 9-204)
 - D. Use or disposition of collateral by debtor (§ 9-205)
 - E. Collateral in secured party’s possession (§§ 9-207, 9-208)
 - F. Request for accounting (§ 9-210)

Secured Transactions (*continued*)

IV. Rights of third parties; perfected and unperfected security interests; rules of priority (§ 9-301, et seq.)

- A. Priority over unperfected security interests (§ 9-317)
- B. Requirement of filing and steps to be taken for perfection (§§ 9-308 through 9-316; § 9-501, *et seq.*); assignment of security interest (§§ 9-514, 9-519)
- C. Protection of buyers of goods and chattel paper (§§ 9-320, 9-330), including protection of holders and purchasers of negotiable instruments (§ 9-331)
- D. Priority of liens arising by law (§ 9-333)
- E. Alienability of debtor's rights (§ 9-401)
- F. Priority among conflicting security interests (§§ 9-322 through 9-329)
- G. Fixtures (§ 9-334)
- H. Accessions; commingling (§§ 9-335, 9-336)
- I. Subordination (§ 9-339)
- J. Defenses against assignee; modification of contract (§§ 9-404 through 9-406)
- K. Termination statement (§ 9-513); release of collateral (§ 9-512)

V. Default (§ 9-601, et seq.)

- A. Rights and remedies on default (§§ 9-601 through 9-606)
 - 1. Including secured party's collection rights (§ 9-607)
 - 2. Including secured party's right to take possession and dispose of collateral (§§ 9-608 through 9-624)
- B. Debtor's rights (§§ 9-625 through 9-628)

Torts

NOTE: Examinees are to assume that survival actions and claims for wrongful death are available. Joint and several liability, with pure comparative negligence, is the relevant rule unless otherwise indicated.

I. Intentional torts

- A. Harms to the person, such as assault, battery, false imprisonment, and infliction of mental distress; and harms to property interests, such as trespass to land and chattels, and conversion
- B. Defenses to claims for physical harms
 - 1. Consent
 - 2. Privileges and immunities: protection of self and others; protection of property interests; parental discipline; protection of public interests; necessity; incomplete privilege

II. Negligence

- A. The duty question, including failure to act, unforeseeable plaintiffs, and obligations to control the conduct of third parties
- B. The standard of care
 - 1. The reasonably prudent person: including children, physically and mentally impaired individuals, professional people, and other special classes
 - 2. Rules of conduct derived from statutes and custom
- C. Problems relating to proof of fault, including *res ipsa loquitur*
- D. Problems relating to causation
 - 1. But for and substantial causes
 - 2. Harms traceable to multiple causes
 - 3. Questions of apportionment of responsibility among multiple tortfeasors, including joint and several liability
- E. Limitations on liability and special rules of liability
 - 1. Problems relating to "remote" or "unforeseeable" causes, "legal" or "proximate" cause, and "superseding" causes
 - 2. Claims against owners and occupiers of land
 - 3. Claims for mental distress not arising from physical harm; other intangible injuries
 - 4. Claims for pure economic loss
- F. Liability for acts of others
 - 1. Employees and other agents
 - 2. Independent contractors and nondelegable duties
- G. Defenses
 - 1. Contributory fault, including common law contributory negligence and last clear chance, and the various forms of comparative negligence
 - 2. Assumption of risk

III. Strict liability and products liability: common law strict liability, including claims arising from abnormally dangerous activities, and defenses to such claims; claims against manufacturers and other defendants arising out of the manufacture and distribution of products, and defenses to such claims

IV. Other torts

- A. Claims based on nuisance, and defenses
- B. Claims based on defamation and invasion of privacy, defenses, and constitutional limitations
- C. Claims based on misrepresentations, and defenses
- D. Claims based on intentional interference with business relations, and defenses

Trusts and Estates

Decedents' Estates

I. Intestate succession

- A. Share of the surviving spouse
- B. Share of children and more remote descendants
 - 1. Adopted children
 - 2. Children born out of wedlock
 - 3. Half-bloods
- C. Share of ancestors and collaterals
- D. Advancements
- E. Simultaneous death

II. Wills

- A. Execution requirements
 - 1. Governing law
 - 2. Wills complying with law of domicile
 - 3. Foreign wills
 - 4. Holographic wills
 - 5. Interested witnesses
- B. Integration of wills
- C. Codicils
- D. Incorporation by reference
- E. Facts of independent significance
- F. Revocation
 - 1. Dependent relative revocation
 - 2. Revocation due to changed circumstances
 - 3. Revocation by physical act
 - 4. Partial revocation
- G. Revival
- H. Contractual wills
- I. Construction problems
 - 1. Lapsed legacies
 - 2. Ademption
 - 3. Accretions
 - 4. Satisfaction
 - 5. Exoneration
 - 6. Slayer statutes
 - 7. Disclaimers
 - 8. Simultaneous death
 - 9. Abatement
 - 10. Classification of legacies and devises
 - 11. Gifts to classes
 - 12. Gifts to children and issue
- J. Will contests
 - 1. Age requirement
 - 2. Mental capacity
 - 3. Undue influence
 - 4. Fraud
 - 5. Mistake
 - 6. No-contest clauses
 - 7. Standing to contest
- K. Nonprobate transfers
 - 1. Inter vivos gifts
 - 2. Joint tenancy
 - 3. Tentative trusts and pay-on-death accounts
 - 4. Other nonprobate transfers
- L. Powers and duties of personal representative

III. Family protection

- A. Spouse's forced or elective shares
 - 1. Size
 - 2. Assets subject to share
- B. Share of after-born or pretermitted child

IV. Living wills and durable health care powers

- A. Execution requirements
- B. Revocation
- C. Individuals eligible to be agent or attorney-in-fact
- D. Authority of agent or attorney-in-fact

Trusts and Estates (*continued*)

Trusts and Future Interests

I. Trusts

- A. Classification
- B. Creation
 - 1. Requirement of trust res
 - 2. Requirement of beneficiary
 - 3. Requirement of trustee
- C. Types of trusts
 - 1. Revocable
 - 2. Irrevocable
 - 3. Testamentary
 - 4. Pourover
 - 5. Charitable
- D. Alienability of trust interests
- E. Protective trusts
 - 1. Discretionary trusts
 - 2. Support trusts
 - 3. Spendthrift trusts
- F. Powers of invasion
- G. Modification
- H. Termination
- I. Powers and duties of trustees
 - 1. Prudent person rule
 - 2. Duty of care
 - 3. Duty of loyalty
 - 4. Duty to act impartially
 - 5. Principal and income allocations

II. Future interests

- A. Classification of reversions, remainders, and executory interests
- B. Life estates and terms of years
- C. Vested and contingent interests
- D. Powers of appointment
- E. Acceleration of future interests
- F. Rule Against Perpetuities
 - 1. Common law
 - 2. Wait-and-see
 - 3. Cy pres
 - 4. Other reforms

III. Construction problems

- A. Survivorship problems
- B. Gifts to classes
- C. Gifts to heirs
- D. Doctrine of Worthier Title
- E. Gifts to children and issue
 - 1. Adopted children
 - 2. Children born out of wedlock
- F. Death without issue
- G. Gifts by implication