

MORNING SESSION

Tuesday, July 27, 2021

QUESTION NUMBER 1

(Use bright blue booklet for essay answer)

On March 1, Bella, an art dealer, called Sharon, a renowned nature photographer, and said, "I am interested in purchasing your photograph of Florida panthers hunting at night that I saw at your exhibition last summer. What is the price?" Sharon replied, "I will sell it to you for \$22,000." Bella replied, "OK, it's a deal; send me the paperwork this week."

The photograph Bella had seen at the exhibition was named "Panthers One." Four months after Bella saw Panthers One at Sharon's art exhibition, Sharon photographed panthers again and exhibited one of these photographs, which she named "Panthers Two."

On March 10, Sharon sent Bella a document typed on Sharon's letterhead:

"I agree to sell Bella my panther photograph for \$32,000. Payment to be made by April 10. In the event that either party fails to perform this contract, the non-breaching party shall be entitled to damages in the amount of \$5,000." Sharon did not sign the document. She added a handwritten note "Please sign and return to me." Sharon's assistant, who typed the letter, erred in typing \$32,000 instead of \$22,000. Sharon did not notice the error.

On March 15, Bella received the document. Bella did not notice the price was \$32,000. She did not sign or return the document to Sharon.

On April 10, Bella arrived at Sharon's studio and tendered \$22,000. Sharon tendered to Bella the photograph called "Panthers Two," which Bella rejected. Sharon terminated the transaction and demanded \$5,000 based on the March 10 letter.

On May 14, Bella retained the services of Laura, a lawyer. Laura has an associate named Andrew. Five years ago, while associated with Laura, Andrew represented Sharon in the formation of a limited liability company for her photography business and in other matters involving the company. Laura knew of Andrew's prior work for Sharon, but did not disclose it to Bella.

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Prepare a memorandum discussing Bella's potential claims, any arguments that Sharon may raise, and the likely outcome of the matter. Also discuss any ethical issues posed by Laura's representation of Bella.

END OF QUESTION NUMBER 1

QUESTION NUMBER 2

(Use bright green booklet for essay answer)

Mary and her boyfriend, David, had a heated argument in their house after they accused each of infidelity. David struck Mary. He also hurt Mary's three-year-old son by throwing him to the ground. Mary locked herself and her son in the bathroom and called 911. She told the 911 operator what David had done to her and her son, described what David was wearing, and said that she feared for their safety because David was still furious and kept a gun in the home.

Officers Jones and Smith were dispatched to respond to the 911 call. As the officers drove to the house, the 911 operator relayed what Mary reported. When they arrived, Officer Jones went around to the home's backyard while Officer Smith knocked at the front door. There was no fence or other barrier around the backyard.

Officer Smith heard a child crying inside the home. He announced that the police were at the front door and demanded that someone open the door. As soon as Officer Smith made the announcement, the lights in the home were turned off. No one came to the front door.

David tried to leave through a bedroom window on the back side of the house. Officer Jones saw David, who matched the description that the 911 operator provided. Officer Jones ordered him to show his hands and get on the ground. David scurried back inside and shut the window.

Officer Jones went to the front of the house and told Officer Smith that he saw David trying to leave through a back window. Officer Smith drew his gun, kicked in the front door, and the officers entered the home.

The officers did not see David when they first entered the house. Officer Jones went into one of the home's two bedrooms. He did not find David, but saw a handgun, a cell phone and a small plastic bag containing white powder on top of a bedside table. Based on his experience and training, Officer Jones believed the powder was cocaine.

Officer Jones told Officer Smith that there was no one in the bedroom. Officer Smith then went into the house's other bedroom. He found David hiding under the bed, handcuffed him, and arrested him.

Question 2 continues on next page

Once the officers believed that David no longer posed a threat, they announced that it was safe to come out of the bathroom. When Officer Jones interviewed Mary about what happened, he asked her if the cell phone that he had found belonged to David. She said, "It's David's. I've never used it." Officer Jones noticed that the cell phone was not password-protected. He opened the phone's messages application and reviewed messages in which David told others that Andy was his cocaine supplier and gave out Andy's phone number.

The officers returned to the police station and told their supervisor about the incident. They explained that they had not obtained a warrant. They also wanted to conduct wiretap surveillance of Andy's phone based on what Officer Jones saw in David's text messages. Lab results have confirmed that the plastic bag found at the house did contain cocaine.

Discuss whether the officers' conduct, including the request to conduct wiretap surveillance, raises any issues under the U.S. Constitution.

END OF QUESTION NUMBER 2

QUESTION NUMBER 3

(Use bright orange booklet for essay answer)

After three years of proceedings, a trial court in North County, Florida, entered a judgment of dissolution of marriage of Mother and Father. The judgment incorporated the parties' mediated settlement agreement. Mother and Father had been married nine years before the judgment. Mother, Father, and Child were residents of North County since Child's birth five years ago and throughout the proceedings.

Under the agreement, Mother was given majority parenting time of Child, and Father was obligated to pay monthly child support and monthly permanent alimony to Mother. The agreement specifically provided that there would be no modification of the amount of alimony or of child support. The agreement was silent on the opportunity to reconsider time-sharing. It also did not address the ability to recover attorneys' fees and costs in any future proceeding.

Eight years after entry of the judgment, Father moved from North County to a town across the state line in Georgia. He is now 15 miles farther away from Mother's and Child's home. His new home is larger and fancier than his previous home, and Child has remarked to Mother about how much he likes Father's home. Mother is concerned that Father may try to modify the time-sharing order in North County court so that he would have majority parenting time with Child. She is also concerned that Father may try to modify the time-sharing order in a Georgia court because he is now a Georgia resident.

Mother also is interested in filing a petition to increase child support. She believes that Father's income has nearly tripled since the judgment of dissolution was entered. Additionally, three years ago, Child was diagnosed with a learning disability, resulting in greatly increased educational expenses incurred and paid by Mother on Child's behalf. Over those three years, Father has voluntarily made occasional payments in excess of the required child support amount to pay additional expenses for Child. Mother has never remarried and has struggled financially over the years. Her income has remained consistent since the dissolution proceedings and is very low in comparison with Father's. She is concerned about an extended dispute in the courts, and wants increase in the child support amount to date back as far as possible.

Mother also regrets the decision to waive modification of alimony and asks if it can be revisited. She also wants to know whether Father can be ordered to pay her attorneys' fees in the anticipated proceeding.

Question 3 continues on next page

Draft a memorandum that addresses the points below.

1. Analyze the merits, and state the likely outcome, of litigation in the North County court about: (a) Father's request to modify time-sharing; (b) Mother's request to modify child support; (c) Mother's request to modify alimony; and (d) Mother's request for attorney's fees.
2. Assume that Father attempts to modify the time-sharing order in a Georgia court. Assume further that Georgia, like Florida, has adopted the Uniform Child Custody Jurisdiction and Enforcement Act ("UCCJEA"). Analyze whether the UCCJEA would grant a Georgia court jurisdiction to modify the time-sharing order.

END OF QUESTION NUMBER 3

END OF MORNING SESSION