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February 2025 MEE Questions

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MEE Question 1

Bill and Nancy recently opened a gym, "Comet Fitness," that they operate as a general partnership. Three blocks from the gym is a sporting-goods store that is having a "going-out-of-business sale" with signs in the store's windows stating that "all sales are final." Bill and Nancy are acquainted with the store owner. Last week, Bill called the store owner and said, "I hope you've got some nice treadmills; the gym could use one or more. I'll try to get over there to check them out."

The next day, Bill and Nancy ran into Kim, one of Nancy's friends, at a party. Kim is a personal trainer. Nancy had not seen Kim for several months. Nancy told Kim that she and Bill had opened a gym and that Kim should consider coming to work for them as a personal trainer. Kim said that she would think about it and let Nancy know. While Kim was walking away, she heard Bill say to Nancy, "You know, the gym has only five treadmills, but I sure wish it had two more," and heard Nancy reply, "I agree. We desperately need to buy one or two more."

The day after the party, Kim, thinking that she might be interested in the trainer job and hoping to impress Bill and Nancy with her initiative, went to the sporting-goods store. Telling the store owner that she was acting on behalf of Comet Fitness, Kim purchased a treadmill and directed the store owner to send the treadmill to Comet Fitness, along with the invoice for the purchase. The store owner agreed to do so.

Later that day, Nancy went to the sporting-goods store and purchased two treadmills for the gym. Unlike the treadmill Kim had purchased, these treadmills had built-in video touchscreens and were similar to the ones that Nancy had previously purchased for Comet Fitness. Nancy told the store owner to have the treadmills delivered to Comet Fitness along with an invoice for the purchase. When Nancy returned to the gym, she told Bill that she had bought two treadmills for the business. Bill became furious and said, "You had no right to do that without first consulting me. You should have made sure that I was with you when you bought them to make sure I'd like what you were buying. I'll return them tomorrow after they arrive unless I like what I see."

The following day, three treadmills arrived at the gym. When Bill and Nancy saw the treadmill purchased by Kim, they told the delivery person, "Take that one back. There must be a mistake—we never bought this." When Bill saw the two treadmills Nancy had bought, he told the delivery person, "Take them back, too; they're nice but not the same color as our other treadmills, and they just won't fit in." Nancy objected and told the delivery person to leave the two treadmills.

The delivery person immediately called the store owner, who said, "Leave them all at the gym. All sales are final. Tell them to pay me what they owe me."

1. Was Kim an agent of Comet Fitness when she purchased the treadmill? Explain.
2. Assuming that Kim was an agent of Comet Fitness,
 - (a) did she have actual authority to purchase the treadmill for Comet Fitness? Explain.
 - (b) did she have apparent authority to purchase the treadmill for Comet Fitness? Explain.
3. Did Nancy have the authority to bind Comet Fitness to the contract to purchase the two treadmills with the video touchscreens? Explain.

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MEE Question 2

Town is a small municipality. Main Street is an eight-block public road that runs through the center of Town with retail shops, restaurants, and other businesses located on each side. The roadway has two lanes of traffic in each direction, separated by a 10-foot-wide median strip on each block. Each median strip is covered with grass and trees, except for paved 10-foot segments on each end. The paved portions of the median strip are part of the crosswalk and are marked for use by pedestrians as they cross the intersections on Main Street.

A Town ordinance prohibits any person other than authorized Town personnel from entering the unpaved portions of the median strip.

The Town council received numerous complaints from Town residents about people who stood in the paved portions of the median strips at intersections on Main Street to solicit money from the drivers of vehicles that stopped at traffic signals. The residents complained that the solicitations were annoying and unwelcome. Law enforcement had no official reports that solicitations from the pedestrian median strips had been aggressive, threatening, or distracting to drivers. Nor were there records of any traffic accidents caused by solicitations made from pedestrian median strips.

In response to the complaints, the Town council enacted the following ordinance:

- (1) No person on a pedestrian median strip on Main Street shall communicate or attempt to communicate with the occupants of vehicles passing by or stopped near the pedestrian median strip.
- (2) A "pedestrian median strip" is the paved portion of the median strip, which is the portion intended for use by pedestrians to cross from one side of the street to the other.
- (3) A violation of this ordinance is a misdemeanor.

The preamble to the ordinance explains that the law was enacted to promote traffic safety by prohibiting those within pedestrian median strips from actively engaging with drivers in a distracting manner. Existing Town ordinances permit posting approved signs on trees and utility poles in median strips, including pedestrian median strips, as well as the posting and carrying of signs on sidewalks adjacent to public roadways. It is also lawful to solicit money from passing vehicles while standing on a sidewalk along Main Street.

Town has charged a man with violating the ordinance by holding a sign stating his opposition to a candidate for Town council while standing in a pedestrian median strip on Main Street in Town.

1. What type of First Amendment forum is the pedestrian median strip? Explain.
2. Is the Town ordinance a content-based or content-neutral regulation of speech? Explain.
3. Assuming that the Town ordinance is content-based, would applying it to the man violate his First Amendment rights? Explain.
4. Assuming that the Town ordinance is content-neutral, would applying it to the man violate his First Amendment rights? Explain.

MEE Question 3

Brenda, a trauma surgeon, was on her way to perform emergency surgery at the hospital. As she drove through her neighborhood, a school bus stopped ahead of her, flashed its red lights, and extended its side-mounted stop sign. The law prohibits passing a stopped school bus under these circumstances. Brenda slowed, considering whether she should pass the bus because of the medical emergency.

Alan was driving a dump truck behind Brenda's car and also saw the bus's extended stop sign. Impatient, he swerved around Brenda's car and the bus. As he did so, his truck's bumper scraped a gash into Brenda's driver's-side doors.

Alan drove out of the neighborhood and onto the four-lane divided highway. Brenda did so also, intent on reaching the hospital quickly. She changed to the left lane and sped past Alan. This angered Alan. He saw Brenda's personalized license plate, "MED DOC." He muttered, "A self-important physician, probably headed to bandage a scraped knee." Alan accelerated and dangerously tailed Brenda's car as both vehicles traveled at 15 miles per hour (mph) above the speed limit. As Alan repeatedly honked his horn, Brenda feared that Alan's truck would hit her car.

Brenda signaled to change from the left lane to the right lane so that she could exit the highway, but Alan positioned his truck beside Brenda's car, matching her speed. Brenda slowed to allow Alan to pull ahead, but Alan slowed also, lowered his window, and yelled, "Oops! Don't miss the exit to the clinic!" Because Alan blocked Brenda from changing into the right lane, she missed the exit for the hospital.

Brenda accelerated more and pulled ahead of Alan into the right lane. She continued 10 miles further at nearly 90 mph, with Alan still close behind. She left the highway at the next available exit intending to double back toward the hospital, but she saw that Alan had followed her off the highway. Brenda pulled into a gas station lot, ran into the restroom, and locked the door. Alan pounded on the restroom door, shouting, "Come out so you and me can have a talk, if you know what I mean!" Brenda shouted back, "I'm not coming out until you leave." Alan yelled back, "I've got all day, so get comfortable." After two minutes, Alan got into his truck and left.

Brenda waited in fear inside the restroom for 20 minutes, after which she peeked out and saw that Alan was gone. She drove to the hospital, using only back roads to make sure that the truck was not following, adding more time to her drive. She finally arrived at the hospital one hour later than she would have arrived if Alan had not prevented her from exiting the highway. The patient had died moments before she arrived. If Brenda had arrived 15 minutes sooner, she would have arrived in time to perform the surgery and the patient likely would have survived.

Brenda sued Alan, asserting two common-law claims. Alan has admitted to all the facts described above. In Brenda's lawsuit, she alleged that Alan "damaged her car as he violated the school-bus law" and that he then "detained her in a public restroom against her will." The patient's family sued Alan for "negligence causing wrongful death."

The jurisdiction expressly allows common-law negligence actions despite the death of the injured party. The jurisdiction's rules mirror the Federal Rules of Civil Procedure.

1. In a negligence action against Alan, can Brenda establish that Alan breached his duty of care based solely on his violation of the school-bus law? Explain.
2. Can Brenda establish Alan's liability based on Alan's allegedly detaining her against her will? Explain.
3. Is Alan's admission sufficient for the patient's family to prevail in a motion for partial summary judgment establishing that Alan is liable on the family's wrongful-death claim? Explain.

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MEE Question 4

Coach is a high school basketball coach who currently lives and works in State A, where she is domiciled. One year ago, Coach visited Hometown, in State H, for her high school reunion. During the reunion, she got into an argument with Fran over which of them was the better athlete in high school. Fran lives in State H, where she is domiciled.

A week after the reunion, when Coach had returned to State A, she learned that Fran was spreading rumors about her. In particular, Fran was telling people that Coach had used illegal drugs with students during her visit to State H.

A newspaper in State A learned of the allegations about Coach and published them, along with quotations from Fran, who had repeated her allegations to a news reporter who had visited Fran in State H. The newspaper story led to a public outcry against Coach, and she was fired. She was unable to find another job for many months.

Coach sued Fran in a state court in State A, alleging that Fran had defamed her under state law. Coach's complaint sought damages in the amount of \$74,999. In a sworn affidavit attached to the complaint, Coach asserted that she had lost \$130,000 in wages due to Fran's defamatory statements, but she stipulated that she would not seek or accept damages in excess of the amount sought in her complaint. That stipulation is binding under State A law.

A process server handed Fran a summons and a copy of the complaint when Fran was attending a basketball game in State A. That was the first time Fran had ever been in State A, and she was there for less than a day. She had no other connection with State A. Statutory law in State A authorizes its courts to exercise personal jurisdiction over persons who are served with process while physically present in the state, without regard to whether they have any other connection with the state.

Ten days later, before filing any answer or responsive motion, Fran filed a notice of removal and the case was removed from state court to the federal district court for the District of State A. The notice of removal asserted that the amount in controversy was \$130,000, the alleged amount of Coach's lost wages.

Coach has moved the federal district court to remand the case to the state court in State A, arguing that the federal court lacks subject-matter jurisdiction over the case.

Fran has moved the federal court to dismiss the case for lack of personal jurisdiction over her and for improper venue.

1. Should the federal court remand the case to the state court in State A on the ground that the federal court lacks subject-matter jurisdiction? Explain.
2. Assuming that the case is not remanded for lack of subject-matter jurisdiction, should the federal court dismiss the case for lack of personal jurisdiction over Fran? Explain.
3. Assuming that the case is not remanded and is not dismissed for lack of personal jurisdiction, should the federal court dismiss the case for improper venue? Explain.

MEE Question 5

Based on the following facts, David has been charged with knowingly obtaining money under the control of a financial institution (Bank) by means of false or fraudulent representations.

David entered Bank on April 18, 2024. After stopping at the counter where pens and banking slips were located, David presented to the teller a check that appeared to be drawn by Customer on her account at Bank and payable to the order of "David" in the amount of \$1,000. Before cashing the check, the teller asked David to produce photo identification (ID), which David did. The teller examined the ID, confirming that it was David's and bore his picture. The teller then returned the ID and gave \$1,000 to David, who left Bank.

Customer received a notification on her banking app, alerting her that a \$1,000 check had just been charged to her account. Customer promptly called Bank to complain. She was transferred to a fraud investigator and immediately exclaimed, "I didn't write that \$1,000 check that you just charged to my account!" Customer was noticeably frustrated and angry.

The investigator began an investigation. First, he compared the signature on the check with Customer's signature in Bank's records and concluded that Customer's signature had been forged on the check. He then reviewed the original video recording of the lobby, counters, and tellers, taken by Bank's security cameras on April 18, 2024. Based on that review, the investigator determined that an individual, later identified as David, had presented a \$1,000 check purportedly drawn on Customer's account and that the teller had cashed it. The investigator wrote a report detailing Customer's complaint, describing the video recording, and attaching copies of the check at issue and a copy of Customer's signature from Bank's records.

In a statement to law enforcement, David denied visiting Bank that day. He has pleaded not guilty. The case is now scheduled for trial in federal court. Neither Customer nor the teller is available to testify. However, Bank's investigator, who is a 10-year employee of Bank and works in an office next to Bank's lobby, is available and will testify.

Evaluate the admissibility of the following evidence if it is offered during the testimony of Bank's investigator in the government's case-in-chief. (Do not discuss constitutional issues.)

1. Bank's original video recording of its lobby, counters, and tellers from April 18, 2024, which shows David stopping at the counter in the lobby and interacting with the teller. Explain.
2. The investigator's testimony as to Customer's oral complaint to the investigator. Explain.
3. The investigator's written report, if the investigator testifies that he is unable to recall both the details of the investigation and writing the report. (Assume that the report is relevant and not admissible as a business record.) Explain.

MEE Question 6

Six years ago, Alice properly created a trust naming a local bank as the sole trustee and naming herself as the sole beneficiary of the trust income. The trust provided that upon Alice's death, the trust principal would be distributed to her niece, Shirley. Alice and Shirley had a very close relationship, although they lived far apart. The trust also directed the trustee to invest trust assets only in "prudent investments." The trust was silent as to whether it was revocable or irrevocable.

When Alice created the trust, she also properly executed a durable health-care power of attorney naming John, her friend and next-door neighbor, as her agent to make health-care decisions for her. This power was expressly conditioned upon Alice's being unable to make health-care decisions for herself.

Four weeks ago, before she left for a vacation in Europe, Alice had separate telephone conversations first with Shirley and then with John. In both conversations, Alice mused about her wishes if "something should ever happen to me." Alice said to Shirley, "If something should happen to me, I don't want to be connected to a life-support system." In her later conversation with John, Alice told him, "In no event do I ever want to be connected to a life-support system if there is little or no hope of my recovery."

Three weeks ago, Shirley found out that the trustee had imprudently invested 30% of the trust's assets in the stock of a company that later went bankrupt, resulting in a significant loss to the trust. Furious, Shirley immediately contacted the bank officer overseeing the trust. After hearing Shirley's complaints, the trust officer responded truthfully that Alice had approved the investment knowing that it was imprudent. He also accurately told Shirley that Alice was fully competent when she approved the investment. The trust officer then told Shirley, "I guess you win some and you lose some."

The next day, Shirley called Alice, who was still vacationing in Europe, to express her anger about the investment. Alice responded, "We can talk about this when I get home in two weeks."

The day after Alice returned home, she had a stroke and was rushed to the hospital. Three hours later, Alice was connected to a life-support system. Her doctor determined that the stroke had left her unable to make her own health-care decisions. The doctor contacted John and Shirley and told them, "It is unclear whether she will survive or, if she survives, what kind of life she will have. We should know much more in a week or so." Shirley believed that the life-support system should be removed immediately and told the doctor to do so at once. John disagreed and told the doctor to keep Alice on the life-support system.

Ten years ago, the jurisdiction adopted the Uniform Trust Code and a health-care power of attorney act.

1. Is the trust revocable or irrevocable? Explain.
2.
 - (a) Does Shirley have an interest in the trust? Explain.
 - (b) Assuming that Shirley has an interest in the trust, how is this interest characterized? Explain.
3. Assuming that Shirley has an interest in the trust, does she have a claim against the bank for making the imprudent investment? Explain.
4. Between Shirley and John, who has the legal authority to direct the doctor whether to remove Alice from the life-support system? Explain.

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