

2010 MPT Summaries

State of Franklin v. McLain (February 2010, MPT-1) The client, Brian McLain, has been charged with violating various sections of the Franklin Criminal Code dealing with methamphetamine, a controlled substance. The charges are based on evidence seized from McLain after police stopped him for investigatory purposes, acting on an anonymous tip that an individual matching McLain's description had been seen purchasing items at a convenience store that, while entirely legal, are known ingredients of methamphetamine production. The officers searched his car, finding the goods described in the tip, together with a small plastic bag containing what appeared to be a marijuana cigarette. McLain was arrested and booked. After questioning, McLain directed the police to a "meth lab" where they found chemicals and equipment used to manufacture methamphetamine, as well as the drug itself. McLain was charged with possession of methamphetamine with intent to distribute, possession of laboratory equipment and supplies with the intent to manufacture methamphetamine, and manufacture of methamphetamine. He has moved to suppress all evidence seized by police on the ground that the officer lacked reasonable suspicion to stop him. He has also moved to dismiss the charge of possession of equipment with the intent to manufacture methamphetamine on the ground that it is a lesser-included offense of manufacture of methamphetamine. Examinees' task is to draft the arguments in support of both motions. The File consists of a memorandum from the supervising attorney describing the assignment, the criminal complaint, the motion to suppress evidence and to dismiss Count 2, the transcript of the anonymous call to the crime hotline, and excerpts from the transcript of the evidentiary hearing. The Library contains the relevant Franklin statutes and three cases—two relating to investigatory stops and one dealing with lesser-included offenses.

Logan v. Rios (February 2010, MPT-2) In this performance test, examinees are associates at a law firm. The client, Trina Rios, owner of a toy store called Trina's Toys, has been sued by Karen Logan, who slipped in a puddle of water and fell while shopping in the toy store. As a result, Logan sued Rios, claiming that Rios violated her duties as a premises owner. Rios pled an affirmative defense of contributory negligence, which, if proven, would be a complete defense to Logan's action. Local court rules require parties to attend an early dispute resolution (EDR) conference, at which a neutral evaluator (the EDR judge) attempts to facilitate settlement of the case. Applicants' task is to prepare an initial draft of part of the EDR statement, which will be submitted to the EDR judge. The EDR statement is confidential and is not shared with any other party. Thus, examinees should candidly discuss the strengths and weaknesses of their client's case. The File contains the instructional memo from the supervising attorney, the local rule and form concerning EDR conferences and statements, the complaint, an investigator's report, and excerpts of the depositions of plaintiff Karen Logan and Nick Patel, a toy store employee. The Library includes a Franklin Supreme Court Approved Jury Instruction concerning the premises liability of property owners with commentary on the duty of property owners and on contributory negligence.

In re Hammond (July 2010, MPT-1) In this performance test, examinees work for a law firm, which has received a request for guidance from another attorney, Carol Walker, related to her representation of William Hammond. A suspicious fire destroyed a building that Hammond owned and that housed his business. He has sought Walker's advice about whether he has any criminal exposure related to the fire and whether he may file an insurance claim for the loss of the building. While Walker suspects that Hammond may have been involved in the fire, Hammond has not admitted or denied involvement and Walker has not explicitly asked. Walker wants to know whether she can successfully move to quash a subpoena duces tecum compelling her to appear before a grand jury convened to investigate the fire and to testify and produce materials relating to her communications with Hammond. Examinees' task is to prepare the argument section of a brief in support of the motion to quash on the grounds that under the Franklin Rules of Professional Conduct and the Franklin Rules of Evidence, Walker may not be compelled to give the testimony or produce materials. The File contains the instructional memorandum from the supervising attorney, a memorandum on persuasive briefs, a letter from Walker to the firm, two memoranda from Hammond's case file, a police report, the subpoena duces tecum, and the motion to quash. The Library contains provisions of the Franklin Rules of Professional Conduct, the Franklin Rules of Evidence, and the Franklin Criminal Code, and two cases from other jurisdictions bearing on a question, unresolved in Franklin, involving the attorney-client privilege and the crime-fraud exception.

In re City of Ontario (July 2010, MPT-2) In this performance test, examinees work for the City Attorney for the City of Ontario, Franklin. The City Attorney has been reviewing the city ordinances and procedures that cover the Liquor Control Commission, the administrative agency composed of the mayor and the city counsel that is responsible for granting liquor licenses and enforcing the relevant city ordinances. The City Attorney is concerned that the current Commission procedures would not be given preclusive effect by the courts should a licensee appeal a decision. Examinees' task is to draft an objective memorandum analyzing whether the courts would be likely to grant preclusive effect to the Commission's decisions and recommending what changes to the current procedures would make it more likely that the courts would do so. In addition, examinees should consider how any recommended changes would affect the City's goal of having cost- and time-effective procedures for addressing violations of the Liquor Control Act. The File contains the instructional memorandum from the City Attorney, excerpts from the City of Ontario Liquor Control Ordinances, and the Notice of Liquor Control Violation form used by the City. The Library includes three cases.