

## 2013 MPT Summaries

***Monroe v. Franklin Flags Amusement Park*** (July 2013, MPT-1) In this performance test item, examinees are associates at a law firm representing the Franklin Flags Amusement Park. Franklin Flags is being sued for negligence by Vera Monroe, a patron who was injured at the amusement park's haunted house attraction the previous Halloween. Ms. Monroe claims three acts of negligence on the part of the park: after being frightened by a staff member dressed as a zombie, Ms. Monroe ran into a wall, breaking her nose; upon leaving the haunted house, she slipped on a muddy path, injuring her ankle; and finally, she fell and broke her wrist after being startled by another staff member in a scary costume. Examinees' task is to draft the argument section of a persuasive brief in support of the park's motion for summary judgment, refuting each of Ms. Monroe's claims that the park was negligent and is liable for her injuries. The File contains the instructional memorandum, guidelines for drafting persuasive briefs, and excerpts from the deposition transcripts of the plaintiff, the general manager of the park, and a park staff member. The Library contains two Franklin Supreme Court cases that address liability for dangerous conditions and how a duty owed to patrons is modified on Halloween.

***Palindrome Recording Contract*** (July 2013, MPT-2) Examinees' law firm represents the four members of the rock band Palindrome, who have retained it to negotiate a recording contract with Polyphon, an independent recording label. Polyphon has presented the band with a detailed contract, and examinees are asked to redraft certain provisions of that contract to comport with the band's contractual demands and objectives. In particular, the band is concerned about artistic control of its recordings, licensing of the band's trademark, and use of the band's images and trademark for marketing purposes. Examinees are asked not only to redraft those contract provisions but also to explain why changes are being made to each, and to analyze legal aspects or complications involved with each provision, if there are any. The File contains the instructional memorandum, a transcript of an interview by the assigning partner with the leader of the band, an agreement among the band members concerning the division of income, and selected provisions of the recording contract. The Library contains a Franklin statute concerning contracts for personal services and two cases discussing the assignment and licensing of trademarks.

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***In re Wendy Martel*** (February 2013, MPT-1) In this performance test, examinees are employed by the law firm that represents Wendy Martel, a Franklin attorney. Martel seeks the law firm's advice regarding her representation of David Panelli, M.D. Martel recently settled Panelli's case and has received the settlement funds. When Martel informed Panelli that she had the funds and needed to determine how much Panelli's former attorney, Rebecca Blair, was entitled to for her work on the case, Panelli was adamant that Blair should receive nothing and should not even be told of the settlement. (Panelli had fired Blair as a result of a personality conflict.) Martel wants to be sure that she acts ethically with regard to Blair and the information about the settlement that Blair is entitled to have. Examinees' task is to draft an opinion letter, following the firm's guidelines, identifying the ethical issues raised by Panelli's position and advising Martel as to how she should proceed. The File contains the instructional memo from the supervising attorney, a format memo for opinion letters, the client interview, copies of the Martel/Panelli emails, and a copy of Blair's lien. The Library contains excerpts from the Franklin Rules of Professional Conduct, a Franklin State Bar ethics opinion, and a case from the Franklin Supreme Court.

***In re Guardianship of Will Fox*** (February 2013, MPT-2) Examinees' law firm represents Betty Fox, a member of the Blackhawk Tribe, who has petitioned for guardianship of her minor grandson, Will. Will's mother died when he was born, and his father, Betty's son, has been in a coma for several months as a result of a car accident. Betty is petitioning for guardianship in the Blackhawk Tribal Court in response to a petition for guardianship in Franklin state court filed by Will's maternal grandparents, the Lodens, who are not members of the tribe. In addition, the law firm has filed on Betty's behalf a motion to transfer the Lodens' state court action to the tribal court. Examinees are asked to prepare a brief in support of the motion to transfer, following the firm's format for persuasive briefs, and anticipating those arguments likely to be raised by the Lodens against the transfer. The File includes the instructional memo from the supervising attorney, a format memo for persuasive briefs, the competing petitions for guardianship filed in state and tribal court, the motion to transfer, a letter from the tribal court, an email from Betty's son, and an excerpt from the Journal of Native American Law. The Library contains excerpts from the Indian Child Welfare Act of 1978, guidelines from the Bureau of Indian Affairs for Indian child custody proceedings, and a case from the Franklin Supreme Court bearing on the subject.