

State of Franklin v. Clegane (February 2018, MPT-1) This performance test requires examinees to draft an argument in support of the reading of victim-impact statements and requests for restitution, as authorized under the Franklin Crime Victims' Rights Act (FCVRA), at the sentencing hearing for defendant Greg Clegane. The law firm's client is Sarah Karth, who wishes to make such statements on behalf of her sister, Valerie Karth, and on her own behalf. In the underlying criminal action, Clegane illegally sold dangerous fireworks to a minor who later ignited those fireworks at a party. The fireworks caused serious injuries to Valerie, as well as property damage. Clegane was convicted of a felony but has not yet been sentenced. Clegane has moved to exclude the sisters' victim-impact statements at the sentencing hearing and to deny their requests for restitution. Examinees' task is to draft the argument section of the brief opposing Clegane's motion and persuading the court that under the case law interpreting the FCVRA, Sarah and Valerie are both crime victims entitled to restitution and to make statements at the sentencing hearing. The File contains the instructional memorandum, the firm's guidelines for writing persuasive trial briefs, a newspaper article about the fireworks incident, excerpts from the client interview, and the defendant's motion. The Library contains excerpts from the FCVRA and three Franklin Court of Appeal cases.

In re Hastings (February 2018, MPT-2) In this performance test, examinees' law firm represents Danielle Hastings, who serves on the board of directors for Municipal Utility District No. 12 (MUD 12), a local government entity that provides public water, sewer, drainage, and other services to her neighborhood. Hastings seeks legal advice as to whether she can hold an election-related position in her voting precinct while remaining on the MUD 12 board. The two positions Hastings is considering are county election judge and precinct chair; she doesn't want to pursue either position if doing so would jeopardize her ability to serve on the MUD 12 board. Examinees' task is to prepare an objective memorandum analyzing whether Hastings can apply for and hold the county election judge position or the precinct chair position, while simultaneously serving as a member of the board of directors for MUD 12. The File contains the instructional memorandum, a transcript of the client interview, and descriptions of the two new positions that Hastings is considering. The Library contains Franklin Constitution article XII, section 25; excerpts from the Franklin Election Code; and three Franklin Attorney General opinions.

State of Franklin v. Hale (July 2018, MPT-1) In this performance test, the examinee is an assistant district attorney in the office that prosecuted defendant Henry Hale for the attempted murder of Bobby Trumbull. Hale was convicted following a jury trial. He has now filed a motion for a new trial claiming that the prosecution failed to disclose exculpatory statements by a witness and the victim in violation of *Brady v. Maryland*, 373 U.S. 83 (1963), and that the trial court erred in allowing the prosecution to introduce the witness's out-of-court statements, which were made to a detective shortly after the shooting and placed Hale at the scene. The trial court allowed the introduction of this hearsay evidence on the theory that Hale had wrongfully caused the witness, who was his girlfriend at the time of the shooting, to be unavailable by marrying her before trial. The court found that Hale had married the witness, at least in part, to prevent her testimony at his trial by asserting Franklin's spousal privilege. Examinees' task is to draft the argument section of the brief opposing Hale's motion for a new trial and persuading the court that no *Brady* violation occurred with respect to either the witness's purported recantation or the victim's statement to the medic in the ambulance, and that the trial court properly admitted the witness's hearsay statements. The File contains the instructional memorandum, the office's guidelines for writing persuasive briefs, the defendant's brief in support of motion for a new trial, excerpts from the trial testimony, and excerpts from the hearing testimony on Hale's motion for a new trial. The Library contains excerpts from Franklin rules of evidence, criminal statutes, and rules of criminal procedure; and three Franklin cases.

Rugby Owners & Players Association (July 2018, MPT-2) The examinee's law firm has been retained by two entities, the Rugby League of America (the League, made up of the owners of each of the eight teams) and the Professional Rugby Players Association (the union representing the players). The parties want the law firm's assistance in the creation of an unincorporated membership association, the Rugby Owners & Players Association (ROPA). ROPA will be a joint venture of the League and the Players to exploit various commercial opportunities, such as broadcast rights and merchandising, presented by professional rugby. Although the League and the Players each have their own counsel, they need a neutral counsel to assist them in the creation of ROPA, as neither side entirely trusts the other. The examinee is asked to draft only those provisions of ROPA's Articles of Association that deal with the association's governance (e.g., quorum requirements, voting rules, filling vacancies on the board, naming a chair, apportioning revenue, and amending the articles). In doing so, the examinee is instructed to provide a brief explanation of each of his or her recommendations and describe how the recommended language comports with both Franklin law and the clients' wishes for how the association should operate. The File contains the instructional memorandum, an interview with the representatives of the League and the Players, and an initial draft of selected provisions of the ROPA Articles of Association, with blanks to be filled in for both substantive language and explanation for those provisions the examinee is to draft. The Library contains excerpts from a treatise on Franklin corporate law, which is also applicable to unincorporated membership associations, and a case from the Franklin Court of Appeal addressing quorum and voting requirements.