



Multistate Performance Test

February 2025 MPT Summaries

Turner v. Larkin (February 2025, MPT-1) In this performance test, the client, Peter Larkin, is a residential landlord. Larkin had a text exchange about one of his apartments with a prospective tenant, Martin Turner. In this exchange, Turner revealed that he was widowed and had three minor children. Larkin was noncommittal and said that he would follow up about the apartment. He never did so. Three months later, Turner initiated a complaint with the United States Department of Housing and Urban Development (HUD), alleging unlawful discrimination based on familial status. The examinee's task is to draft a memorandum identifying and evaluating the legal and factual arguments that the firm should raise in Larkin's defense. The File consists of the instructional memorandum from the supervising attorney, Turner's administrative complaint filed with HUD, and a file memorandum summarizing the client meeting. The Library contains provisions of the Fair Housing Act and the Centralia Municipal Housing Code, as well as two federal cases, *Karns v. U.S. Dep't of Housing and Urban Development* and *Baker v. Garcia Realty Inc.*

In re University of Franklin (February 2025, MPT-2) In this performance test, the examinee works in the Office of University Counsel for the University of Franklin (UF). A reporter at a student newspaper has sent an Inspection of Public Records Act (IPRA) request to the University seeking records related to Professor Eugene Hagen, who teaches at the law school. The request is for records held by the Dean of the UF School of Law and the Chief of Police of the UF Campus Police Department. Examinees are asked to analyze whether the requested categories of documents must be made available for inspection under IPRA. The four categories are the professor's annual performance reviews; any complaints about the professor submitted to the law school by members of the public; a chart containing the names of anyone (faculty, staff, students, or members of the public) who has made a complaint about the professor; and any records involving the professor in the possession of the campus police department. The File contains the instructional memorandum; an article from the student newspaper, *The Daily Howl*; the IPRA request; and emails from the law school dean and the campus police chief to the University's general counsel. The Library contains excerpts from Franklin's Inspection of Public Records Act, two Franklin Court of Appeal cases: *Fox v. City of Brixton* and *Pederson v. Koob*, and one Franklin Supreme Court case: *Torres v. Elm City*.

***Lowe v. Jost* (July 2025, MPT-1)** The subject of this performance test is a medical malpractice lawsuit arising from a hip-replacement operation performed on the plaintiff by the defendant, Dr. Emil Jost, an orthopedic surgeon. The examinee's law firm represents Dr. Jost. Each party has filed a motion to exclude the testimony of the opposing party's expert witness. The examinee's task is to draft an argument persuading the court to admit the testimony of the defense's expert. In addition, the examinee should make the argument that the plaintiff's expert is not qualified, and even if he is qualified as an expert, his testimony should be excluded. Finally, the examinee should argue that, even if the court rules that the plaintiff's expert is qualified, summary judgment in favor of Dr. Jost is appropriate because the plaintiff has failed to offer any admissible evidence on elements of her malpractice claim. The File contains the task memorandum; excerpts from the complaint; an affidavit from one of the plaintiff's neighbors; an affidavit from the defendant, Dr. Emil Jost; and excerpts from the motion hearing testimony. The Library contains Franklin Rule of Evidence 702 (expert witness testimony) and Franklin Rule of Civil Procedure 56 (standard for summary judgment), as well as two appellate cases, *Jacobs v. Becker* (Fr. Ct. App. 2020) (setting forth the standard of care in medical malpractice cases), and *Smith v. McGann* (Fr. Ct. App. 2004) (discussing the standard for admitting expert testimony).

***In re Gourmet Pro* (July 2025, MPT-2)** This performance test requires the examinee to assess three documents and determine whether all or parts of the documents are protected by the attorney-client privilege. The client, Gourmet Professional Grilling Co., is a manufacturer of gas grills and accessories. Gourmet Pro has received an administrative subpoena from the Consumer Product Safety Commission (CPSC) seeking records related to the design, safety, and manufacture of certain of Gourmet Pro's products. The examinee's task is to prepare a memorandum analyzing three representative documents that are responsive to the subpoena: an email from the general counsel to the chief executive officer, the executive summary of a report prepared by an outside law firm, and an email to the general counsel from the company's chief auditor. The documents contain a mix of legal and business advice; in the memorandum, the examinee should be specific as to paragraphs or even individual sentences that are covered by the privilege and therefore not subject to disclosure. The File includes the task memorandum, a file memorandum providing background on the CPSC investigation, and the three documents to be evaluated. The Library consists of one appellate case, *Franklin Dep't of Labor v. ValueMart* (Fr. Sup. Ct. 2019) (explaining the legal standard for determining whether the predominant purpose of a document is legal or business advice), and the order issued by a Franklin trial court regarding discovery motions in *Infusion Tech. Inc. v. Spinex Therapies LLC*.