
FLORIDA BAR EXAMINATION CIVIL PROCEDURE

Under the rules regarding admission, civil and criminal procedure must be tested every exam. They are usually tested together and usually comprise of one-third of the state multiple-choice questions.

Question 1

A plaintiff files a complaint against a defendant in a circuit court in Florida. The defendant hires a Florida attorney. The defendant, who considers himself to be somewhat knowledgeable about legal matters, due to his comprehensive research of legal blogs on the Internet, decides to determine if the attorney is knowledgeable about the law, and thereby, worth the fees he is charging. The defendant asks the attorney a question about when the answer must be filed in the case, and the attorney responds, "Generally, an answer must be served within 20 days after the filing date of the plaintiff's initial pleadings." Is the attorney correct?

- a) No, because an answer must generally be served within 10 days after the filing date of the original process and initial pleading upon the defendant or within 20 days after service of the original process and initial pleading upon the defendant.
- b) No, because generally, an answer must be served within 15 days after the filing date of the original process and initial pleading upon the defendant.
- c) No, because generally, an answer must be served within 20 days after service of the original process and initial pleading upon the defendant.
- d) Yes, because generally, an answer must be served within 20 days after the filing date of the plaintiff's initial pleadings.

Question 2

A resident of Florida obtains medical treatment from a doctor in Florida. The resident believes the doctor negligently administered treatment to the resident, which caused permanent injuries. The resident desires to file a medical malpractice claim against the doctor. The resident properly serves notice of the resident's intent to initiate litigation against the doctor. Which of the following statements is correct?

- a) The resident cannot file an action against the doctor until at least 30 days after the day the resident mailed the notice to the doctor.
- b) The resident cannot file an action against the doctor until at least 60 days after the day the resident mailed the notice to the doctor.
- c) The resident cannot file an action against the doctor until at least 90 days after the day the resident mailed the notice to the doctor.
- d) The resident cannot file an action against the doctor until at least 120 days after the day the resident mailed the notice to the doctor.

Question 3

Janet sues Barry in a Florida court for negligence. Barry files an answer to the complaint. On July 10, Barry thinks he hears the judge say to Janet's attorney, "Don't worry, I can tell Barry was negligent. Anyone can tell he's a careless person." On August 15, Barry files a motion to disqualify the judge. In the motion, Barry alleges that he will not receive a fair trial because of the judge's bias or prejudice. Which of the following is true?

- a) The motion was timely because it was filed within 30 days from when Barry discovered the motion's factual grounds.
- b) The motion was not timely because it was not filed within 20 days from when Barry discovered the motion's factual grounds.
- c) The motion was timely because it was filed within 60 days from when Barry discovered the motion's factual grounds.
- d) The motion was not timely because it was not filed within 5 days from when Barry discovered the motion's factual grounds.

Question 4

A plaintiff files a lawsuit against a defendant in a Florida court. The defendant serves a counterclaim against the plaintiff. If a reply is required,

- a) it must be served within 10 days after service of the answer.
- b) it must be served within 14 days after service of the answer.
- c) it must be served within 20 days after service of the answer.
- d) it must be served within 21 days after service of the answer.

Question 5

An attorney, who represents the plaintiff in a Florida case, serves a document by e-mail to the address designated by the defense attorney. The e-mail contains the document's text in the body of the e-mail. The e-mail does not contain an attachment. The subject line of the e-mail begins with the phrase, "SERVICE OF COURT DOCUMENT," followed by the case number. The service by e-mail was

- a) proper because it did not contain an attachment, but rather, it contained the text of the document in the body of the e-mail.
- b) improper because the subject line of the e-mail contained the case number, which should only be included in the body of the e-mail.
- c) improper because the document's text was included in the body of the e-mail instead of being provided in a PDF or made available via a link to the document on a clerk-maintained website.
- d) improper because e-mail service is not proper in Florida.

Question 6

Jacob, an 88-year-old Florida resident, passes out on a Florida golf course after playing nine holes of golf. Although paramedics are called to the scene, Jacob dies of heart failure. Jacob has a valid will that includes his children and several other beneficiaries. Which court in Florida possesses exclusive original subject-matter jurisdiction over the probate process regarding Jacob's will?

- a) Superior Court
- b) County Court
- c) Circuit Court
- d) Florida Supreme Court

Question 7

A plaintiff properly provides a defendant in Florida with written and dated notice of the filing of a complaint and a copy of the complaint identifying the court in which it was filed. The plaintiff includes with the notice a written request for a written waiver of personal service from the defendant. The plaintiff also provides an additional copy of the notice and request, including the waiver. The plaintiff does not provide a prepaid means for the defendant to comply in writing. Did the plaintiff properly make the request for a waiver of personal service?

- a) No, because the plaintiff did not provide a prepaid means for the defendant to comply in writing.
- b) No, because in Florida, a plaintiff may not request that a defendant waive personal service.
- c) Yes, but it was unnecessary for the plaintiff to provide an additional copy of the notice and request.
- d) Yes, because the request properly complied with the Rules of Civil Procedure.

Question 8

Patricia sues Dale in a Florida court. Dale files a motion for summary judgment 16 days after the commencement of the action. The motion for summary judgment

- a) is premature because it was not filed after the expiration of 20 days from the commencement of the action.
- b) is untimely because it was not filed within 20 days of the commencement of the action.
- c) is timely because any party can move for summary judgment at any time.
- d) is timely because a party against whom a claim is asserted can move for summary judgment at any time.

Question 9

A defendant, who is represented by an attorney, in a Florida civil case files a pleading. The attorney signs the pleading and includes the attorney's address, phone number, and email address. Which of the following is correct?

- a) The attorney was not required to state the attorney's address and phone number on the pleading.
- b) The attorney need not have signed the pleading, as only the defendant's signature was required.
- c) The attorney was required to have also included the attorney's bar number on the pleading.
- d) The attorney need not have stated the attorney's address but was required to include the attorney's phone number and email address on the pleading.

Question 10

A plaintiff files a lawsuit in a Florida circuit court based on a breach of contract theory. The defendant in the case would like to file a counterclaim against the plaintiff. However, the defendant's claim does not arise out of the transaction that is the subject matter of the plaintiff's claim. Which of the following is most accurate?

- a) The defendant may file the claim as a permissive counterclaim.
- b) The defendant may not file the claim because the Florida Rules do not permit permissive counterclaims, unlike the Federal Rules of Civil Procedure.
- c) The defendant may file the claim because it is a permissive counterclaim, but if joinder of the claim could cause inconvenience, the claim is severable and subject to a separate trial.
- d) The defendant must file the claim because it is a compulsory counterclaim.

Question 11

Patty sues Dennis in a Florida court on a claim based on contract law. Patty's lawyer believes that there is no genuine issue of material fact and that Patty is entitled to summary judgment. The lawyer tells Patty that he will file a motion for summary judgment. Patty asks the lawyer, "Do you have to wait to file that motion? The lawyer says, "No, it can be filed any time after the commencement of the action." The lawyer is

- a) correct.
- b) incorrect because a party seeking to recover on a claim can move for summary judgment any time after 10 days from the commencement of the action.
- c) incorrect because a party seeking to recover on a claim can move for summary judgment any time after 15 days from the commencement of the action.
- d) incorrect because a party seeking to recover on a claim can move for summary judgment any time after 20 days from the commencement of the action.

Question 12

A plaintiff in Florida files a complaint against a defendant in a circuit court in Florida. Upon the filing of the complaint, the clerk issues a summons and delivers it to the plaintiff. The plaintiff causes the summons and a copy of the complaint to be hand delivered at the defendant's usual place of abode by leaving the summons and complaint with the defendant's 15-year-old daughter, who resides there. The process server, in delivering the summons and complaint, also tells the daughter of the process's contents. Was service of process proper?

- a) No, because the summons and complaint were left with a person under the age of 18.
- b) No, because the process server told the daughter about the process's contents.
- c) Yes, but only if the defendant previously evaded service by an officer or process server.
- d) Yes, service of process was proper.

Question 13

Bill files a complaint in a Florida court in which Bill alleges that Dan's negligence caused Bill's injuries. Bill, however, fails to serve Dan with the complaint and summons. After 120 days pass and service still has not occurred, the court, on its own motion after notice, enters an order on December 15, directing that service be completed within 30 days. Was it proper for the court to enter the December 15, order?

- a) No, because if service of process is not completed within 120 days of filing the complaint, the court must dismiss the case without prejudice.
- b) No, because even if service of process is not completed within 120 days of filing the complaint, the court may not direct that the service be made within a specified time.
- c) Yes, because the court must first direct that service be made within a specified time before dismissing a case.
- d) Yes, because if process is not timely served, the court must, on its own initiative after notice or on motion, direct that the service be made within a specified time, dismiss the action without prejudice, or drop the defendant as a party.

Question 14

A homeowner in Orange County, Florida, hires a painter from Orange County to paint the interior of the homeowner's home. The painter tells the homeowner that the painter will do all of the preparatory work for painting, including moving any valuables and furniture out of the rooms. While moving an expensive, antique vase, the painter slips on a plastic drop cloth that the painter forgot to move out of the way. The painter falls, and the vase shatters when it hits the floor. The vase has recently been appraised at a value of \$52,500. The homeowner believes there is a cause of action against the painter based on negligence, and the homeowner files a lawsuit against the painter in the county court in Orange County to seek recovery for the value of the vase. The complaint states that the damages sought are \$52,500. The painter moves to dismiss the case on the ground that the county court lacks subject-matter jurisdiction. Which of the following is a correct statement?

- a) The county court lacks subject-matter jurisdiction because the amount in controversy is not more than \$75,000.
- b) The county court lacks subject-matter jurisdiction because the amount in controversy is not satisfied.
- c) The county court has subject-matter jurisdiction because the amount in controversy is more than \$20,000.
- d) The county court could have subject-matter jurisdiction if it hears the case and the homeowner recovers less than \$50,000.

Question 15

Rick believes that a cause of action may exist for him to file a civil suit in Florida against his neighbor, Jim. Rick doesn't want to pay for a lawyer, so he asks a friend, who has read countless legal thriller novels, for advice. The friend tells Rick that he will need to prepare a complaint and serve the complaint on Jim, the defendant. Rick says, "What's a complaint?" The friend responds, "It's where you state your claim. I don't know everything about it, but I know that it has to contain a long and detailed statement of the ultimate facts that show that you are entitled to relief. You should probably hire an attorney." The friend's statement concerning the factual basis of the complaint

- a) was incorrect because the complaint should contain a thorough and detailed statement of the potential facts showing that the pleader is entitled to relief.
- b) was incorrect because the complaint should contain a plain statement of the ultimate facts showing a reasonable probability that the pleader is entitled to relief.
- c) was incorrect because the complaint should contain a short and plain statement of the ultimate facts showing that the pleader is entitled to relief.
- d) was incorrect because the complaint should contain a basic statement of the facts of which the court should take judicial notice.

Question 26

Jacob, an 88-year-old Florida resident, passes out on a Florida golf course after playing nine holes of golf. Although paramedics are called to the scene, Jacob dies of heart failure. Jacob has a valid will that includes his children and several other beneficiaries. Which court in Florida possesses exclusive original subject-matter jurisdiction over the probate process regarding Jacob's will?

- a) Superior Court
- b) County Court
- c) Circuit Court
- d) Florida Supreme Court

Question 40

Beverly is injured during a medical procedure. Beverly hires an attorney and files a lawsuit in Florida based on negligence. Beverly alleges the doctor negligently performed the procedure. The case proceeds to trial, and during voir dire, Beverly's attorney makes a challenge for cause objecting to a juror. The ground for the objection was that the juror was selected from the body of the county and not from a lawfully selected list for potential jurors. Good cause to challenge the juror

- a) exists if that juror has also served as a juror in the same court within six months.
- b) exists if that juror has also served as a juror in the same court within one year.
- c) exists if that juror has also served as a juror in the same court within two years.
- d) exists if that juror has also served as a juror in the same court within five years.

Question 41

A plaintiff files a lawsuit in a Florida circuit court based on a breach of contract theory. The defendant in the case would like to file a counterclaim against the plaintiff. However, the defendant's claim does not arise out of the transaction that is the subject matter of the plaintiff's claim. Which of the following is most accurate?

- a) The defendant may file the claim as a permissive counterclaim.
- b) The defendant may not file the claim because the Florida Rules do not permit permissive counterclaims, unlike the Federal Rules of Civil Procedure.
- c) The defendant may file the claim because it is a permissive counterclaim, but if joinder of the claim could cause inconvenience, the claim is severable and subject to a separate trial.
- d) The defendant must file the claim because it is a compulsory counterclaim.

Question 17

A plaintiff files a complaint against a defendant in a Florida circuit court. The plaintiff properly requests that the defendant waive service of the summons. The defendant timely complies with the request for the waiver. The defendant then objects to the court's personal jurisdiction in a motion to dismiss. The plaintiff argues that the defendant waived the objection to personal jurisdiction by agreeing to waiver of service. Is the plaintiff correct?

- a) No, because an objection to personal jurisdiction can be made at any time.
- b) No, because acceptance of a complaint by mail does not preclude the defendant from objecting to venue or personal jurisdiction.
- c) Yes, because acceptance of a complaint by mail precludes the defendant from objecting to venue or personal jurisdiction.
- d) Yes, because the defendant did not preserve the objection to personal jurisdiction by filing a notice of objection with the waiver.

Question 69

A technician, who is a Georgia resident, enters a contract with a business in which the technician is required to perform some work for the business in the State of Florida. The technician fails to perform the work in Florida. The business consults its in-house attorney, who advises the business that it may pursue a breach of contract action against the technician in Florida. The business files a lawsuit against the technician in a Florida court. The complaint is based on breach of contract, and it alleges that the technician failed to perform its obligation under the contract to perform work in Florida. The technician objects to the Florida court's personal jurisdiction and moves to dismiss the case. Should the court dismiss the case?

- a) No, because failing to perform acts in Florida as required by a contract subjects the breaching party to personal jurisdiction in a Florida court.
- b) No, unless the technician does not own property located in Florida.
- c) Yes, because the technician is not a resident or citizen of Florida.
- d) Yes, because the technician did not commit a tort in Florida.

Question 136

At a Pretrial Conference, the court and the parties can consider all of the following matters except

- a) The simplification of disputed issues.
- b) The necessity or desirability of amendments to the pleadings.
- c) The possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof.
- d) All of the above.

FLORIDA BAR EXAMINATION CRIMINAL PROCEDURE

See introductory note to civil procedure practice questions.

Question 1

A defendant is arrested in Florida and taken to the county jail. At the first appearance, the state attorney files a motion seeking pretrial detention of the defendant. The motion sets forth with particularity the legal grounds and facts on which the pretrial detention is requested. Which of the following is correct?

- a) The motion is facially sufficient.
- b) The motion is untimely because it was not filed prior to the first appearance.
- c) The motion is not facially sufficient because it fails to certify that the State has received sworn testimony supporting the grounds of the motion.
- d) The motion is not facially sufficient because it does not include attached affidavits containing the testimony that would support the grounds of the motion.

Question 2

Pat steals a car from the parking lot of a Florida convenience store. After Pat joyrides in the car for several hours, Florida law enforcement officers locate and arrest Pat for the felony offense of grand theft. Twenty-two days pass without the filing of charges in an information or indictment. An adversarial preliminary hearing

- a) is available to Pat as a matter of right because 21 days passed from the time of the arrest, and the State did not file charges.
- b) is not yet available to Pat as a matter of right because 30 days have not yet passed from the time of the arrest.
- c) may be available to Pat if the State does not file formal charges within 45 days from the date of the arrest.
- d) is available to Pat as a matter of right because the State did not file charges, and 21 days have passed from the time of the arrest, but if the State files formal charges, the filing of the information or indictment will eliminate Pat's entitlement to the proceeding.

Question 3

The State of Florida charges Patty with first-degree premeditated murder, a capital offense. The case proceeds to a trial by jury made up of eight jurors. Patty objects to the jury panel, arguing that the jury contains an incorrect number of jurors. Patty is

- a) correct because the jury should constitute 12 jurors in her case.
- b) correct because the jury should constitute six jurors in her case.
- c) incorrect because it is permissible for the jury to consist of eight jurors in her case.
- d) incorrect because only six jurors are required in her case, but it is not improper for two additional jurors to make up the jury panel.

Question 4

Ben and Jerry are charged jointly on felony charges. The offenses are not punishable by death or life imprisonment. The case is set to proceed to trial. During *voir dire*, the prosecutor makes seven peremptory challenges. The defendants object, arguing that the prosecutor's peremptory challenges exceed the allowable amount. Which of the following is correct?

- a) The prosecutor in this case may make up to 3 peremptory challenges.
- b) The prosecutor in this case may make up to 6 peremptory challenges.
- c) The prosecutor in this case may make up to 12 peremptory challenges.
- d) The prosecutor in this case may make up to 18 peremptory challenges.

Question 5

Betty is arrested in Florida for allegedly committing burglary. Betty is held at the county jail. However, the State fails to file formal charges by the 30th day after her arrest. The court, with notice to the State, orders Betty's immediate release on the 33rd day unless the State files formal charges by then. Was the court's order proper?

- a) No, because the court may not permit an extension of time beyond the 30-day deadline for filing formal charges.
- b) No, because the court may not order the immediate release of a person awaiting the filing of formal charges.
- c) Yes, unless the State showed good cause for not filing the information.
- d) Yes, because 30 days passed from the date of arrest and the State had not filed formal charges.

Question 6

Betty is charged with a misdemeanor offense in Florida. Betty does not make a demand for a speedy trial. Betty must

- a) be brought to trial within 30 days after her arrest.
- b) be brought to trial within 60 days after her arrest.
- c) be brought to trial within 90 days after her arrest.
- d) be brought to trial within 175 days after her arrest.

Question 7

The State of Florida charges a defendant with a felony. The defendant serves a notice of discovery. The prosecutor serves a written discovery exhibit that discloses all discoverable evidence in the prosecutor's control that the defendant can inspect, copy, test, and photograph. The prosecutor also discloses lists of names and addresses of people that possess information relevant to the offense charged or a defense to the charge. The defendant

- a) must make its required disclosures within 10 days after receiving the prosecutor's discovery exhibit.
- b) must make its required disclosures within 15 days after receiving the prosecutor's discovery exhibit.
- c) must make its required disclosures within 30 days after receiving the prosecutor's discovery exhibit.
- d) need not make any disclosures, as the burden is on the State to prosecute the defendant.

Question 8

After a defendant's arrest in Florida, the defendant appears before a Florida judge for first appearance. At the first appearance, the judge makes a decision regarding whether the defendant should be released on bail or under other conditions. In deciding the conditions of pretrial release, the judge

- a) may not consider the defendant's employment history, financial resources, family ties, and source of funds for posting bail.
- b) may not consider the weight of the evidence against the defendant.
- c) may not consider the defendant's source of funds for posting bail.
- d) may consider the defendant's employment history, financial resources, family ties, and source of funds for posting bail.

Question 9

Bob is arrested in Florida for a felony offense. Bob wants a court-appointed attorney to represent him, and he requests that the court appoint one. Bob files an application for indigent status. Which of the following is correct?

- a) Bob is "indigent" if he cannot pay for an attorney's services, including investigation costs, without applying for a bank loan or requesting a loan from family members.
- b) Bob is "indigent" if he cannot pay for most of an attorney's services, not including investigation costs, without potential hardship to him or his family.
- c) Bob is "indigent" if he cannot pay for an attorney's services without some hardship to him or a palpable burden on his family.
- d) Bob is "indigent" if he cannot pay for an attorney's services, including investigation costs, without substantial hardship to him or his family.

Question 10

Bryan is charged with burglary in Florida. Bryan has a high school education, but he has no college education or training in the law. Although the court cautions Bryan about the legal complexities in the case and Bryan's right to counsel, Bryan makes an unequivocal request on the record to represent himself. Bryan is competent and does not suffer from a mental illness that would prevent him from understanding the proceedings or conducting proceedings by himself. The court makes a finding on the record that Bryan knowingly and intelligently waived the right to counsel. The court

- a) erred by not requiring Bryan to hire an attorney or to apply for indigent status if Bryan could not afford an attorney.
- b) erred by not making a finding as to Bryan's legal skills or the complexity of the case before permitting Bryan to proceed without counsel.
- c) did not err because a defendant is not entitled to an attorney in Florida in a non-capital case.
- d) did not err because a Florida court cannot deny a defendant's unequivocal request to represent himself.

Question 11

Bill, who has aspirations of running for political office in Florida, is arrested for committing a misdemeanor in Florida. Instead of charging Bill in an information, the State attorney has a grand jury consider the case. The grand jury indicts Bill on the misdemeanor charge. Bill moves to dismiss the charge on the basis that a grand jury cannot indict for a misdemeanor offense. The Court

- a) should dismiss the case because a grand jury cannot indict for a misdemeanor offense.
- b) should dismiss the case because a grand jury can only indict for a misdemeanor offense when the misdemeanor offense is coupled with a felony charge.
- c) should not dismiss the case because a grand jury can indict for any offense.
- d) should not dismiss the case because misdemeanor charges must be brought by indictment.

Question 12

In Florida, The mother of an eight-month-old infant leaves the infant alone with a babysitter. The infant is healthy at the time the mother leaves. While the mother is away, the babysitter calls 911 because the infant appears nonresponsive. Paramedics arrive at the scene and take the infant to the emergency room. The infant remains unresponsive and is put on life support. Three months later, the infant dies. The police investigate the matter and determine that the infant died as a result of a cerebral hematoma, caused by blunt force trauma to the head while the babysitter was with the infant. The investigation shows that the baby was completely healthy before being left alone with the babysitter. The babysitter provided a voluntary confession, in which she said she shook the infant to get the infant to stop crying. The babysitter stated that while shaking the infant, she was angry, and she intentionally slammed the infant's head into the crib railing, at which point, the baby became unconscious. The babysitter is arrested and charged with first-degree felony murder, which is punishable by life imprisonment. The babysitter has no prior criminal record. Is the babysitter entitled to pre-trial release?

- a) No, because she is charged with a crime punishable by life in prison.
- b) No, because she is charged with a crime punishable by life in prison and the proof of guilt is evident.
- c) Yes, because she has no prior criminal record.
- d) Yes, if the babysitter does not present a risk of physical harm to the community by being released prior to trial.

Question 13

A law enforcement officer in Okaloosa County, Florida, sees Jake commit a Misdemeanor offense. The officer attempts to issue a notice to appear, but Jake refuses to sign it. Jake is 21 years old, and he and his family have lived in Okaloosa County for 19 years. The officer arrests Jake for the misdemeanor and brings Jake to police headquarters. The booking officer, after conducting a reasonable investigation of Jake's lack of prior convictions and other relevant history, decides to issue a notice to appear. The booking officer

- a) was not permitted to issue a notice to appear because Jake previously refused to sign the notice to appear that the arresting officer attempted to issue.
- b) was permitted to issue a notice to appear.
- c) was permitted to issue a notice to appear if the arresting officer approved the decision.
- d) was not permitted to issue a notice to appear without a court order.

Question 14

Defendant is in custody following arrest for an offense. The arrest did not occur pursuant to an arrest warrant. As a general rule, what is the time limit on holding Defendant in custody after this warrantless arrest and before a non-adversary probable cause determination occurs before a judge?

- a) 96 hours.
- b) 72 hours.
- c) 48 hours.
- d) 24 hours.

Question 15

Defendant is indigent and entitled to appointment of counsel. Defendant is formally charged with an offense punishable by incarceration. Thereafter, defendant is subject to custodial restraint until making a first appearance before a committing judge. At that point defense counsel is appointed for him. Did this appointment timely occur?

- a) No, because the appointment must occur when the defendant is read *Miranda* rights.
- b) Yes, because the appointment could only occur at the first appearance.
- c) No, because the appointment should have occurred when Defendant was formally charged.
- d) Yes, because, at the discretion of the State, the appointment could have occurred at any of these procedural phases.

Question 44

A prosecutor in Florida charges Kim with one count of felony battery. Kim is indigent, and the court appoints the public defender to represent her. The prosecutor and the defense attorney discuss plea deals. Kim tells her attorney that she wants to accept a deal that the prosecutor has offered. The agreement states, among other things, that Kim is waiving her right to appeal by entering the plea. The parties appear in court, and during the proceeding, the judge places Kim under oath and addresses her, saying, "If you plead guilty on the terms of this agreement, do you understand you are giving up the right to appeal and you are waiving your right to trial?" The judge

- a) improperly inserted himself in the plea proceedings by directly addressing Kim regarding the plea arrangement.
- b) improperly attempted to influence the proceedings and cause Kim to reject the State's offer.
- c) properly addressed Kim regarding the waiver of the right to trial, but improperly addressed Kim regarding the right to appeal.
- d) properly addressed Kim in order to ascertain if she understood the plea agreement.

Question 53

Bob is arrested in Florida for a felony offense. Bob wants a court-appointed attorney to represent him, and he requests that the court appoint one. Bob files an application for indigent status. Which of the following is correct?

- a) Bob is “indigent” if he cannot pay for an attorney’s services, including investigation costs, without applying for a bank loan or requesting a loan from family members.
- b) Bob is “indigent” if he cannot pay for most of an attorney’s services, not including investigation costs, without potential hardship to him or his family.
- c) Bob is “indigent” if he cannot pay for an attorney’s services without some hardship to him or a palpable burden on his family.
- d) Bob is “indigent” if he cannot pay for an attorney’s services, including investigation costs, without substantial hardship to him or his family.

Question 48

After a defendant’s arrest in Florida, the defendant appears before a Florida judge for first appearance. At the first appearance, the judge makes a decision regarding whether the defendant should be released on bail or under other conditions. In deciding the conditions of pretrial release, the judge

- a) may not consider the defendant’s employment history, financial resources, family ties, and source of funds for posting bail.
- b) may not consider the weight of the evidence against the defendant.
- c) may not consider the defendant’s source of funds for posting bail.
- d) may consider the defendant’s employment history, financial resources, family ties, and source of funds for posting bail.

Question 36

Deputy Lawson, of the Pinellas County Sheriff’s Department, observes Jenny committing a misdemeanor in Pinellas County, Florida. Instead of physically arresting Jenny, Deputy Lawson provides Jenny with a notice to appear for the misdemeanor. Which of the following is correct?

- a) Jenny will be able to evade prosecution for the misdemeanor because prosecutions for misdemeanors may not be initiated with a notice to appear.
- b) Jenny will not be able to evade prosecution for the misdemeanor by arguing that prosecutions for misdemeanors may not be initiated with a notice to appear.
- c) The prosecutor must charge Jenny with the misdemeanor in an information in order for the misdemeanor case to continue.
- d) The prosecutor must obtain a grand jury indictment in order for the misdemeanor case to continue.

Question 66

Bev and Carl develop a plan to commit a series of robberies in Florida. Bev and Carl begin their plan and successfully complete two robberies before they are apprehended by Florida law enforcement. The prosecutor charges Bev and Carl in the same indictment for both of the robberies. Which of the following is correct?

- a) The prosecutor erred by charging Bev and Carl in the same indictment.
- b) The prosecutor did not err by charging Bev and Carl in the same indictment.
- c) The prosecutor erred by charging Bev and Carl in the same indictment, unless both Bev and Carl are also charged with conspiracy.
- d) The prosecutor erred by charging Bev and Carl in the same indictment because both defendants are charged with accountability for each of the robberies.

Question 39

Betty is arrested and charged in Florida with two counts of theft. Betty files a timely notice of expiration of speedy trial time, and the court has a hearing on the notice. The court finds no reason for a delay or continuance, and the court orders that Betty must be brought to trial within 10 days. Through no fault of Betty, the prosecutor fails to bring Betty to trial within the 10-day period. The court grants a discharge under the speedy trial rule. The discharge

- a) exonerates Betty from the theft charges and bars prosecution of those offenses and all other crimes that might have been charged as a result of the same criminal episode as a lesser included offense.
- b) operates as a dismissal of the theft charges, but the prosecutor may file another information charging Betty with the two counts of theft if Betty is brought to trial within 21 days after the prosecutor files a new information.
- c) exonerates Betty from the theft charges and bars prosecution of those offenses, but the discharge does not bar prosecution for all other crimes that might have been charged as a result of the same criminal episode as a lesser included offense.
- d) operates as a continuance of the case for a thirty-day period in which the State may make a plea offer to Betty or, alternatively, file a nolle prosequi of the theft charges.

Question 131

The State charges Defendant with the offenses for which he was arrested. Which of the following answers incorrectly describes the Speedy Trial Rule?

- a) A demand for a speedy trial generally must be filed within 60 days after Defendant is charged.
- b) A calendar call must occur 5 days after the filing of a demand for a speedy trial.
- c) If Defendant is not brought to trial within 50 days after filing the demand, Defendant is entitled to a remedy.
- d) A grand jury's indictment is a type of formal charge not subject to the Speedy Trial Rule.

