

QUESTION 10: JOHN AND CAROL PLANNED TO BUY COCAINE FROM A FRIEND THAT THEY KNEW, JOSH. WHEN THEY WENT TO JOSH'S HOME AT 11:00 P.M., THEY FOUND THAT NO ONE WAS HOME, BUT THE DOOR WAS UNLOCKED. THEY ENTERED THE HOME AND FOUND THE COCAINE. THEY DECIDED TO TAKE SOME AND LATER DECIDED TO TAKE SOME KNICK-KNACKS THAT THEY HAD ALWAYS ADMIRED.

CAN JOHN AND CAROL BE FOUND GUILTY OF BURGLARY SINCE THE DOOR WAS UNLOCKED?

ANSWER 10: YES. VA. CODE § 18.2-89 SAYS THAT ANYONE WHO “BREAK[S] AND ENTER[S] THE DWELLING HOUSE OF ANOTHER IN THE NIGHTTIME WITH INTENT TO COMMIT A FELONY OR ANY LARCENY THEREIN” SHALL BE GUILTY OF BURGLARY.

QUESTION 11: LISA FILED A DCSE CHILD SUPPORT PETITION IN WISE COUNTY JUVENILE & DOMESTIC RELATIONS COURT AGAINST HER HUSBAND, KEVIN, AFTER THE PARTIES SEPARATED. KEVIN DECIDED TO FILE FOR DIVORCE BECAUSE HE THOUGHT LISA WAS PLAYING “NASTY” BY GOING TO J&DR AND FILED FOR DIVORCE IN WISE COUNTY CIRCUIT COURT. KEVIN ALSO SCHEDULED A PENDENTE LITE HEARING REGARDING CUSTODY, VISITATION, AND SUPPORT FOR THE NEXT AVAILABLE MOTIONS DAY IN TWO WEEKS’ TIME WHEN HE FILED HIS PETITION. LISA ASKED THE J&DR COURT TO RULE ON HER PETITION FOR CHILD SUPPORT BECAUSE IT WAS FILED BEFORE KEVIN’S PETITION FOR DIVORCE. DOES THE J&DR COURT HAVE JURISDICTION?

ANSWER 11: NO! THE J&DR COURT WAS DIVESTED OF JURISDICTION PURSUANT TO VA. CODE § 16.1-244 WHEN KEVIN FILED FOR DIVORCE AND SCHEDULED A HEARING ON HIS *PENDENTE LITE* MOTION IN TWO WEEKS' TIME.

QUESTION 12: SUPER DUPER, LLC, AND PETER BEGAN TO NEGOTIATE THE TERMS OF A SALE OF GIDGETS AND GADGETS TO PETER. GIDGETS ARE EXTREMELY RARE AND HAVE TO BE PRODUCED INDIVIDUALLY (PLUS, NO ONE ORDERS THEM); GADGETS ARE EASY TO SELL IN SUPER DUPER'S LINE OF BUSINESS AND MASS-PRODUCED.

SUPER DUPER, LLC, SENT A WRITTEN OFFER TO PETER THAT WOULD PROVIDE FOR 1000 GIDGETS AND 1000 GADGETS AT A COST OF \$2.50 EACH. PETER CAME BACK WITH A COUNTEROFFER AND ASKED SUPER DUPER, LLC, TO SELL THEM FOR \$2.00 EACH. SUPER DUPER DECLINED.

LATER THAT WEEK, PETER CALLED AND ACCEPTED SUPER DUPER'S ORIGINAL OFFER VIA TELEPHONE. SUPER DUPER MADE THE GIDGETS, SHIPPED THE GIDGETS AND GADGETS, AND PRODUCED A BILL OF SALE FOR PETER TO PAY. PETER REFUSED TO PAY, CLAIMING THAT HE HAD EXPECTED DIFFERENT COLORS ON THE GADGETS. WHO WILL PREVAIL?

ANSWER 12: SUPER DUPER WOULD PREVAIL ON THE GIDGETS, BUT PETER WOULD LIKELY PREVAIL ON THE GADGETS. BECAUSE SUPER DUPER, LLC PRODUCED AND SHIPPED THE GIDGETS TO PETER BEFORE PETER MADE ANY NOTICE OF REPUDIATION, PETER IS LIKELY LIABLE FOR THE PAYMENT OF THE SPECIFICALLY PRODUCED GIDGETS. WHILE THE STATUTE OF FRAUDS REQUIRES A SIGNED WRITING FROM THE PERSON AGAINST WHOM A CONTRACT IS ENFORCED, THE GIDGETS WERE “SPECIALLY MANUFACTURED GOODS” THAT COULD NOT BE EASILY RESOLD IN SUPER DUPER’S BUSINESS. VA. CODE § 8.2-201.

QUESTION 13: COLLEEN SUED ALEXANDRA IN DICKENSON COUNTY CIRCUIT COURT FOR BREACH OF CONTRACT. THE CONTRACT HAD BEEN SIGNED AND PERFORMED IN ALEXANDRIA, BUT COLLEEN LIVED IN ARLINGTON AND WANTED THE CASE TO BE CLOSER TO HER. ALEXANDRA FILED A MOTION TO DISMISS COLLEEN'S SUIT DUE TO IMPROPER VENUE. SHOULD THE COURT GRANT HER MOTION TO DISMISS?

ANSWER 13: NO – VENUE IS NOT JURISDICTIONAL. VA. CODE § 8.01-258. ALEXANDRA COULD OBJECT TO THE VENUE, BUT VA. CODE § 8.01-264 SPECIFIES THAT “NO ACTION SHALL BE DISMISSED SOLELY ON THE BASIS OF VENUE IF THERE BE A FORUM IN THE COMMONWEALTH WHERE VENUE IS PROPER.” ALEXANDRA CAN (AND SHOULD) OBJECT TO THE VENUE, BUT THE MATTER WOULD NOT BE DISMISSED ON THIS BASIS.

QUESTION 14: MATT WAS WALKING IN DOWNTOWN BRISTOL AND SLIPPED AND FELL AFTER TRIPPING OVER UNEVEN CONCRETE ON THE SIDEWALK. MATT BROKE HIS LEG AND DID NOT HAVE INSURANCE. MATT KNEW THAT THE STATUTE OF LIMITATIONS WAS TWO YEARS, SO HE FILED SUIT IN BRISTOL CIRCUIT COURT SEVEN MONTHS AFTER THE ACCIDENT, WHEN HE HAD COMPLETED PHYSICAL THERAPY (SO HE WOULD KNOW THE FULL AMOUNT OF THE CLAIM). THE CITY OF BRISTOL MOVED TO DISMISS THE COMPLAINT. SHOULD THE COMPLAINT BE DISMISSED?

ANSWER 14: YES! MATT HAD TO PROVIDE A WRITTEN NOTICE OF CLAIM TO THE CITY WITHIN SIX MONTHS OF THE ACCIDENT, INCLUDING THE TIME AND PLACE OF THE ACCIDENT. VA. CODE § 15.2-209. MATT MAY HAVE FILED WITHIN THE APPLICABLE STATUTE OF LIMITATIONS, BUT THE FACTS DO NOT STATE THAT THIS WRITTEN NOTICE WAS SUBMITTED AND, AS SUCH, MATT'S SUIT SHOULD BE DISMISSED.

QUESTION 15: SETH AND MARY HAVE BEEN MARRIED FOR 10 YEARS. SETH SIGNED A PROMISSORY NOTE AND DELIVERED IT TO CARRIE, AND IN RETURN, CARRIE LOANED SETH \$2,000.00 FOR A VACATION WHILE SETH AND MARY WERE DOWN ON THEIR LUCK. MARY KNEW ABOUT THE LOAN AND APPROVED IT VERBALLY WITH SETH. AFTER A FEW MONTHS OF NONPAYMENT, CARRIE SUED SETH AND MARY IN SCOTT COUNTY. CAN MARY BE HELD LIABLE FOR SETH'S PROMISSORY NOTE?

ANSWER 15: NO; MARY DID NOT SIGN THE PROMISSORY NOTE, SO SHE WOULD NOT BE LIABLE. VA. CODE §8.3A-401.

QUESTION 16: ROMA DECIDED THAT SHE WANTED TO GROW MARIJUANA PLANTS IN HER HOME IN LEBANON. SHE KNEW THAT RECREATION SALES WERE STILL ILLEGAL BUT DECIDED TO TAKE ADVANTAGE OF THE 2021 LAW AND GROW FOUR PLANTS. SHE PUTS A LABEL ON EACH ONE THAT SAYS “FOR ROMA’S PERSONAL USE ONLY.” HAS ROMA COMPLIED WITH THE LAW?

ANSWER 16: NOT ON THE FACTS PRESENTED. WHILE THE PERSON MUST LABEL THEIR PLANTS WITH A NOTATION THAT THEY ARE FOR PERSONAL USE, THEY MUST ALSO INCLUDE THEIR NAME AND DRIVER'S LICENSE OR IDENTIFICATION NUMBER. VA. CODE § 4.1-1101(B)(3).

QUESTION 17: LEWIS AND JAYNE ARE MARRIED AND LIVE IN GRUNDY. LEWIS DECIDES THAT HE NEEDS EXTRA MONEY TO RESTORE HIS OLD GAS PUMPS AND BEGINS TO EMBEZZLE MONEY FROM HIS FIRM. THE FIRM FINDS OUT AND THE COMMONWEALTH BRINGS CRIMINAL CHARGES AGAINST LEWIS. JAYNE, WHO KNEW OF THE PLAN, OFFERS TO TESTIFY ON BEHALF OF THE COMMONWEALTH. LEWIS REQUESTS THAT HER TESTIMONY BE EXCLUDED DUE TO SPOUSAL PRIVILEGE. IS LEWIS LIKELY TO PREVAIL?

ANSWER 17: NO! SPOUSAL PRIVILEGE DOES NOT APPLY IF THE TESTIMONY IS VOLUNTARILY OFFERED BY THE SPOUSE. LEWIS WOULD NOT BE ABLE TO BAR JAYNE FROM TESTIFYING FOR THE COMMONWEALTH.

QUESTION 18: ALLISON, BALL, AND CHASE IS A FIRM IN DUFFIELD. THEY OPERATE AS A PARTNERSHIP. CHASE WAS RIDING HIS MOTORCYCLE ONE DAY WHEN HE CRASHED AND PASSED AWAY. ALLISON AND BALL DECIDED THAT THEY WOULD NOT CHANGE THE NAME, EVEN THOUGH THEIR FIRM WAS ONLY A FEW YEARS OLD. IS THIS PROPER UNDER THE RULES?

ANSWER 18: LIKELY YES! THIS WOULD LIKELY NOT BE A MISLEADING COMMUNICATION UNDER RULE 7.1 BECAUSE THERE HAS BEEN A CONTINUING SUCCESSION IN THE FIRM'S IDENTITY. COMMENT 5 OF THIS RULE ADDRESSES THIS ISSUE.

ETHICAL HYPOTHETICAL #2. LAURIE RECENTLY DECIDED TO TAKE ON MARY'S CASE IN ABINGDON. SHE HAS A SOMEWHAT CONTENTIOUS RELATIONSHIP WITH OPPOSING COUNSEL AND SEEKS TO "ONE UP" HIM IN NEGOTIATIONS. WANTING HER CLIENT TO SEE THAT LAURIE WAS AGGRESSIVELY ADVOCATING FOR HER, LAURIE COPIED MARY ON AN EMAIL TO OPPOSING COUNSEL. OPPOSING COUNSEL HIT "REPLY ALL" ON THE EMAIL, SENDING THE FOLLOWING REPLY:

LAURIE,

I REGRET THAT OUR PROFESSIONAL RELATIONSHIP IS AT SUCH AN IMPASSE. IF YOUR CLIENT WISHES TO NEGOTIATE, PLEASE FEEL FREE TO LET ME KNOW.

LAURIE BECOMES UPSET THAT OPPOSING COUNSEL REPLIED TO BOTH HER AND MARY AND SEEKS TO BRING A BAR COMPLAINT AGAINST OPPOSING COUNSEL.

ETHICAL HYPOTHETICAL #2 – QUESTION:

Will Laurie be successful, since the attorney communicated with a party represented by counsel?

ETHICAL HYPOTHETICAL #2 – ANSWER: NO; RULE 4.2 WOULD NOT BE VIOLATED HERE. IN LEGAL ETHICS OPINION 1897, THE COMMITTEE DECIDED THAT IF AN ATTORNEY INCLUDES THEIR CLIENT IN THE “TO” OR “CC” LINES OF THE EMAIL, THE ATTORNEY GAVE IMPLIED CONSENT TO A “REPLY ALL” RESPONSE.

DIFFERENT JURISDICTIONS HAVE SPLIT ON THIS RESPONSE. THE BEST PRACTICE, IF YOU WANT TO AVOID A “REPLY ALL” RESPONSE, IS TO EITHER “BCC” THE CLIENT OR FORWARD THE CLIENT ANY PERTINENT CORRESPONDENCE FOR HER FILES.

LIGHTING ROUND!

TRUE OR FALSE??

1. True or False: It is illegal to hunt or kill any wild bird or wild animal, including nuisance species, with a gun, firearm, or other weapon on a Sunday, within 200 yards of a place of worship or any accessory structure thereof.



TRUE

2. True or false: It is illegal to shine headlights into a poultry house that causes chickens to panic.

A rectangular sign with a black frame is mounted on a light-colored wall. The sign has a white background and the word "TRUE" written in a black, serif font in the center. Below the wall, a wooden floor with vertical planks is visible.

TRUE

3. True or false: It is legal to spit on a public sidewalk.

FALSE

4. True or false: It is legal to use obscene language while using a telephone.

FALSE

5. True or false: It is illegal to tickle a woman.

FALSE

6. True or false: It is a misdemeanor to trick or treat after age 12 in certain areas of Virginia.



TRUE

7. True or false: You may only honk your horn for
“reasonable warnings.”



TRUE

8. True or false: If you use a radar detector and are caught, you can have it sent to a mailing address of your choosing after evidence is taken.



TRUE

9. True or false: If you bribe someone to lose a baseball game, you are guilty of a felony.



TRUE

A rectangular sign with a black frame and a white background. The word "TRUE" is centered on the sign in a black, serif, all-caps font. The sign is mounted on a light-colored wall, and a wooden floor is visible at the bottom of the image.