Evidence for Paralegals 5th edition Marlowe Test Bank

SKU: 9780735590137-TEST-BANK

CHAPTER 2—Test Questions

True/False

1. The Federal Rules of Evidence differentiate between relevancy and materiality.
a. True
*b. False

2. Under the common law, if the parties stipulate facts into evidence, additional evidence covering the same facts is immaterial.
*a. True
b. False

3. Evidence is probative if it assists in the exploration for truth.
*a. True
b. False

4. For evidence to be relevant, it must tend to prove the "ultimate issue" in a case.
a. True
*b. False

5. The predisposition under the Federal Rules of Evidence is to accept rather than reject relevant evidence.
*a. True
b. False

6. If there is a legal privilege, relevant evidence may be excluded.
*a. True
b. False

7. If evidence is highly prejudicial, it is inadmissible.
a. True
*b. False

8. If evidence is very probative, it may be admissible even though it is highly prejudicial.
*a. True
b. False

9. The common law concept of materiality has been merged into the definition of relevance found in the Federal Rules of Evidence.
*a. True
b. False

10. A proponent of evidence seeks to prohibit the use of the evidence at trial.
a. True
*b. False

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11. Evidence which may shed some light on the issue in the trial is said to be immaterial.
a. True
*b. False

12. An adversary in a court case is the opponent.
*a. True
b. False

13. Probative evidence is never admissible.
a. True
*b. False

Multiple Choice

1. In a case where Richard is accused of assaulting Lear, the prosecution intends to call 5 witnesses to testify that they heard Richard threatening Lear the week before the assault. What is the problem, if any, with the admissibility of the testimony of the prosecution's witnesses?

a. The testimony is not relevant as to whether Richard actually assaulted Lear.
b. The testimony is relevant but highly inflammatory and therefore inadmissible.
c. The testimony is not probative, but will be admissible for a limited purpose.
*d. The testimony could be cumulative, and could be excludable under FRE 403 as unduly burdensome on the court.

2. In a case where the impoverished defendant Monty is accused of defrauding a wealthy woman named Buffy in an investment scam, defense wants to present evidence of Buffy's extravagant lifestyle. The defense claims this is relevant to help prove that Buffy didn't pay attention to poor Monty when he explained the risks of his venture to her, because she was too occupied with her jet-setting life. Plaintiff believes the defense wants to portray Buffy as wealthy so as to shift sympathy from her to the poor defendant. The argument under the Federal Rules of Evidence which could be made to exclude this evidence would most likely be

a. The evidence is irrelevant.
b. The evidence is immaterial.
*c. The evidence is highly prejudicial and only mildly probative.
d. All of the above.

3. Jim, a witness for the defense, had a fraud conviction 5 years ago. The defense would like to keep evidence of this conviction out of court. This evidence is

a. Probably admissible, because it is probative of Jim's part in the crime.
b. Probably inadmissible, because it is highly prejudicial and not probative of the case.
c. Probably inadmissible because it is not relevant.
*d. Admissible to impeach Jim's credibility, because it is a prior conviction of a crime involving dishonesty.

4. Marie sued Donnie for unpaid royalties, and subpoenaed various documents in

Donnie's possession regarding revenues he had received over the previous 3 years for their joint work. Donnie failed to produce the documents, which were subpoenaed, but then tried to introduce those documents at trial. These documents are

a. Inadmissible since they are not probative.
*b. Inadmissible since Donnie failed to produce them when they were requested by Marie.
c. Admissible since they are relevant.
d. Admissible since they were requested by Marie prior to trial, indicating she stipulated to their admissibility.

5. Nicole wrote Denise a letter indicating that she was afraid that her boyfriend was going to kill her. Several months later, Nicole was found dead. Prosecution wants to introduce the letter written by Nicole into evidence, for the limited purpose of showing the victim's state of mind prior to her death. This would get the letter past any hearsay or confrontation clause objection. On what basis could this evidence be excluded?

*a. The evidence is highly prejudicial under FRE 403, relative to the limited probative value regarding Nicole's state of mind several months prior to her death.
b. The evidence is not relevant, since Nicole's state of mind does not tend to prove her boyfriend's committed the murder.
c. The evidence is cumulative, in that it would unduly burden the court to have testimony with regard to the victim's state of mind.
d. All of the above.

6. Rhonda Roller-Blader bungled her blading experience by bumping into Winnie Walker's poodle, Puppy. Puppy, after lingering insufferably, did not survive the ordeal. Winnie sued Rhonda for wrongful death of Puppy. Winnie sought damages for Puppy's medical expenses. Rhonda admitted liability. Thus, the issue at trial is the amount of damages Rhonda must pay. Winnie's lawyer attempts to introduce evidence that Rhonda was ogling another blader. Rhonda's attorney objects. Under the common law rules of relevancy and materiality the evidence is:

a. Admissible to prove Rhonda's extent of negligence.
b. Admissible to prove the force with which Puppy was flattened.
c. Inadmissible because Rhonda's ogling is not probative of the flattening force on Puppy.
*d. Inadmissible because Rhonda's ogling is immaterial and inflammatory.

7. Winnie, in addition to requesting medical expenses, asked for damages for Puppy's pain and suffering. Rhonda still admits liability. Rhonda's attorney offers the testimony of the eyewitness who saw Rhonda burst into tears and immediately begin mouth to mouth resuscitation immediately following the squashing of Puppy. Winnie's attorney objects. Under the Federal Rules of Evidence, the trial judge should rule the evidence:

a. Admissible as probative and therefore relevant of Rhonda's intent to harm (or lack thereof) poor Puppy.

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b. Admissible because the Federal Rules of Evidence abandoned the concept of materiality.
*c. Inadmissible because Rhonda's subsequent actions are not of consequence to the determination of the action.
d. Inadmissible because Rhonda's subsequent actions show that she did not have any tendency to harm Puppy.

8. The prosecution, in a criminal case, has charged the defendant with assault on a Federal Officer. The officer testifies in the trial. The prosecution asks the officer whether the defendant said anything to the officer during the attack. The defense attorney objects because he knows that his client said very nasty words to the officer about cutting off a significant part of the officer's anatomy. The defense attorney, as a basis for the objection, states that the words the defendant spoke are irrelevant, but if relevant are unfairly prejudicial. The prosecution argues that the words are highly probative of the defendant's intent, i.e. his aggressive violent actions toward the officer. The trial court should rule the evidence is:

a. Inadmissible because the words are so inflammatory, that the jury would be too upset unable to reach a verdict.
b. Inadmissible because the defense attorney said the magic words, "unfairly prejudicial." The judge therefore has no choice but to rule the evidence inadmissible.
c. Admissible because the words have no relevance to the defendant's intent.
*d. Admissible because the words, although nasty and probably prejudicial, are probative of the defendant's intent.

9. The Federal Officer from question #8 is still testifying, and the prosecution asks what else the defendant said during the attack. The defense attorney objects on the grounds of unfair prejudice, because he knows that the defendant also said something very, very nasty about the officer's mother,which had nothing to do with the attack. The judge should rule the evidence:

a. Inadmissible because the judge has no discretion to make the ruling.
*b. Inadmissible because the prosecutor really wants the evidence to make the jurors mad at the defendant.
c. Admissible because the words are highly probative of the assault.
d. Admissible, although prejudicial, the defendant did say the words during the attack.

10. In the assault on a federal officer trial, the prosecution intends to call ten witnesses who will testify that they heard the defendant say words indicative of assaultive behavior. On the seventh witness, the defense attorney objects for the reason that the evidence is:

*a. Inadmissible because, although is relevant, probative and not unfairly prejudicial, the testimony is cumulative.
b. Inadmissible because the evidence is not relevant at all.
c. Admissible because the judge has no discretion to prevent the prosecution from presenting witnesses.
d. Admissible because the evidence is relevant.

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