

VIRGINIA BOARD OF BAR EXAMINERS
Roanoke, Virginia – July 29, 2025

Question 6

Jamie and Devon married in 2012 and resided in Lebanon, Virginia. In late 2023, Jamie began having an affair with another woman and eventually left Devon and moved in with the other woman. In 2024, Jamie decided to file for divorce from Devon.

To avoid attorney's fees, Jamie turned to a "do-it-yourself" divorce website, where he obtained forms for a "Complaint for Divorce" and a "Summons." In a space in the Complaint form in which the "grounds of divorce" were to be stated, Jamie typed, "I wish to divorce Devon because the thrill of our marriage is gone."

After completing the forms, Jamie filed the documents with the local circuit court clerk and delivered file-marked copies of the Summons and Complaint to the sheriff's office to be served on Devon. The deputy sheriff serving the documents went to Devon's home in Lebanon; however, Devon was not there, but her seventeen-year-old daughter, who also lived in Devon's home, answered the door. The sheriff handed the documents to Devon's daughter, explained their importance, and told her to give them to her mother when she got home. When Devon got home, her daughter gave her the documents, and Devon promptly retained an attorney to represent her in the divorce proceedings.

Devon's attorney moved to quash the service of process on her due to defective service. The judge denied the motion to quash. Immediately thereafter, Devon's attorney filed a demurrer requesting the court to dismiss Jamie's Complaint on the ground that the Complaint failed to state a proper ground for divorce and therefore failed to state a claim. The judge overruled the demurrer. Without objection from Devon's attorney, a hearing ensued in which Jamie was granted a divorce from Devon. At the same hearing, the marital assets of Jamie and Devon were divided between them. A final order memorializing the judge's decisions was entered on December 1, 2024.

In the spring of 2025, Devon found out that Jamie had lied about his financial status when he testified at the divorce hearing and that he had hidden marital funds in several offshore bank accounts. On April 1, 2025, Devon's attorney filed with the court a request for leave to file a Bill of Review. In the request, Devon's attorney stated the sole ground for the request was that, after entry of the court's final order, Devon had for the first time discovered new evidence (the hidden offshore accounts), that was substantial and would have altered the judge's division of property. The judge denied the request for leave, ruling that it had been untimely filed, and, in addition, that the grounds asserted for a Bill of Review were inadequate.

- (a) Did the judge err by denying Devon's motion to quash service? Explain fully.**
- (b) Did the judge err by overruling Devon's demurrer? Explain fully.**
- (c) Did the judge err in her ruling concerning Devon's Bill of Review? Explain fully.**

* * * * *

Question 7

Teresa, a resident of Virginia Beach, Virginia, gave birth to Steven just after graduating from high school in 1971. Steven's father, Mark, was killed in the Vietnam War in 1972. Teresa and Mark never married. In 1975, Teresa married Daniel and later gave birth to Jack, a child of that marriage. Teresa and Daniel raised both boys with equal love and affection, never treating Steven any differently from Jack. However, Daniel never formally adopted Steven.

Teresa owned 100 acres of real property that she had inherited from her father. The property was located in the coalfields of Buchanan County, Virginia, upon which 88 gas wells had been drilled by a company to which the gas rights had been leased through 2030. Under the lease, Teresa received royalties that exceeded \$250,000 a year, all of which had been deposited in a joint savings account, with the right of survivorship, in Teresa's and Steven's names. Teresa had maintained the joint account since before her marriage to Daniel.

Teresa also owned a number of certificates of deposit (CDs) amounting to \$350,000 in various banks.

In 2015, Teresa sought the assistance of Reverend Rauls, the minister of her church, for the purpose of making a will. At Teresa's direction, Reverend Rauls typed the information given to him by Teresa into a simple printed will form she had purchased at a local office supply store. The will named Reverend Rauls as Executor. The will was signed by Teresa in the presence of Reverend Rauls and the church secretary, both of whom signed as witnesses in Teresa's presence.

The will left all the CDs to Cynthia, the Reverend's wife to whom Teresa was not related. The will left the gas royalty bank account in equal parts to Daniel, Steven, and Jack. The will left all other personal property to Daniel. There was no mention of the 100 acres in Buchanan County.

Teresa died in January 2025, leaving behind the 100 acres, the royalty bank account, and the CDs described above. She was survived by Daniel, Steven, Jack, and Reverend Rauls. Cynthia had predeceased Teresa by six months.

Reverend Rauls, acting as Executor, filed the will for probate and claimed the right to receive the bequest to Cynthia as her successor in interest based on Virginia's anti-lapse statute. Jack intervened in the probate proceedings and made the following assertions: (1) that, as preparer of the will and because of the bequest to Cynthia, Reverend Rauls was disqualified from serving as Executor; and (2) that, in any event, the will was invalid.

- (a) How should the court rule on each of Jack's assertions? Explain fully.**
- (b) Assume for this part only that the will was valid. To whom and in what proportions should the 100 acres in Buchanan County, the CDs, and the royalty bank account be distributed? Explain fully.**

Question 8

After a weekend competing in the local dog show with her beloved beagle Barkley, Josey went to sleep early Sunday night. She was abruptly awakened in the night by the sound of a delivery truck crashing into her downstairs sunroom, the very room where Barkley slept at night. The accident occurred after the truck driver, David, had driven sixteen hours straight, contrary to his specialized training by his employer. He was trying to earn extra money by picking up more deliveries. He was in a hurry that night and tired from pushing the drive for so long, yet he wanted to keep driving, despite knowing that his night vision problems would make this part of the trip more difficult and even more tiring.

As David had approached the vicinity of Josey's house, he failed to notice a sharp turn in the road, likely because of his problems with night vision, and ran off of the roadway into the side of Josey's house. Josey ran out of her upstairs bedroom towards the staircase leading to the sunroom. Her next-door neighbor, Ned, who had seen the truck impact the house, ran into the house through the kitchen door. He passed Barkley the beagle in the process who was out of Josey's view. Josey yelled down asking Ned if Barkley was okay. In a moment of sheer meanness, due to his intense dislike of the dog and longstanding feud with Josey over his barking, Ned impulsively yelled back to Josey "your damn dog has finally chased his last cat and barked his last bark." Before he could amend his response to reassure her that Barkley was alive and well, Josey began experiencing heart palpitations. She collapsed in the hallway, crying unconsolably and then fainted right before Barkley bounded upstairs to her side. EMT workers arrived shortly, revived Josey, and reassured her that Barkley had not been hurt in the accident. After determining that Josey's heartrate had returned to normal and she had no other signs of injury, they left the scene. However, before leaving, they instructed Josey to follow up with her family physician should she develop any signs of injury. She did not experience any signs of injury so she never called her physician.

Josey intends to file a lawsuit against David based on his negligence, seeking recovery for property damage to her home and punitive damages. Josey also intends to file a lawsuit against Ned seeking recovery for her emotional distress.

- (a) What argument(s) might Josey assert in support of her claim for punitive damages against David, and is she likely to prevail? Explain fully.**
- (b) What cause(s) of action for infliction of emotional distress under Virginia law might Josey reasonably bring against Ned, and is she likely to prevail? Explain fully.**

* * * * *

Question 9

Andy and Billy were both candidates in a hotly contested City Council election in Buena Vista, Virginia. Billy publicly accused Andy of several incidents of seriously immoral and embarrassing behavior. Andy became very angry and went to Billy's campaign headquarters and pushed open the door. Andy saw Billy and started screaming at him. Billy told Andy to leave. Andy picked up a heavy paperweight and threw it at Billy. Billy saw it coming and ducked. The paperweight missed Billy but struck one of Billy's campaign helpers, Candace. Andy saw that Candace was bleeding from the head and took off running. Candace suffered a severe head injury and died the next day.

Andy had a close friend named Danielle that lived in Buena Vista. He went to Danielle's house and told her something had happened and that he needed to hide at her house for a while to give him time to figure out what to do. The next day, the police came to Danielle's house looking for Andy. The police told Danielle that Andy was responsible for injuring Candace and that she had died from her head injuries. Although Andy was still hiding at Danielle's house, she told the police that she had not seen Andy and did not know where he was. The police officers left but suspected that they had heard Andy in the house and noticed a jacket with Andy's name on it. They went to the magistrate and obtained a search warrant, returned to Danielle's house with the warrant and found Andy in the home. Danielle then admitted that she had been hiding Andy.

- (a) With what crime or crimes, if any, should Andy be charged regarding Candace, and is he likely to be convicted? Explain fully.**
- (b) With what crime or crimes, if any, should Andy be charged regarding Billy, and is he likely to be convicted? Explain fully.**
- (c) With what crime or crimes, if any, should Danielle be charged, and is she likely to be convicted? Explain fully.**
- (d) Should Danielle be convicted of giving a false report? Explain fully.**

PROCEED TO THE MULTIPLE CHOICE QUESTIONS