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1. **There is an issue whether Joan's insane delusions caused her to draft her will differently.**

An insane delusion is one (1) an unreasonable and patently false belief (2) which is present at the execution of the will, and (3) which causes the testator to draft their will differently. A testator can have the required mental competency to draft a will, yet still suffer from an insane delusion. Here, for the last 5 years Joan was taking a medicine which was known to cause frequent hallucinations. She began experiencing frequent hallucinations, and caused her to believe the Male line of her family was cursed by Martians. This belief satisfies the requirement that the testator unreasonably believe something which is not true. But, the delusion must have caused the testator to change the will in reliance on that insane delusion.

When Joan went to her attorney to draft her will she told the attorney that she wanted to leave her estate to only her daughter because "Leaving the males in my family anything valuable would be a complete waste on burglars and thieves." Here, Joan's son and her three grandsons had extensive criminal records for theft and burglary. No mention is made about a curse or Martians. In addition, Joan was not close to her children or grandchildren. She rarely saw any of them, even on holidays. Thus, there is no evidence in the record that the delusions caused Joan to draft her will any differently than if she had not been suffering the delusions.

2 There is an issue as to whether Joan was able to reasonably identify her property.

The requisite mental state required to draft a valid will is that the testator must know and reasonably be able to identify (1) her issue, and (2) her property. If the testator does not have the required mental capacity, the will can be found to be invalid. Here, Joan was likely able to identify her issue because she correctly knew that her son and grandson all had extensive criminal records for theft and burglary. In addition, Joan regularly sent her children and grandchildren birthday cards and inexpensive presents. Thus, Joan is able to identify her issue.

As for her ability to identify her estate, there is evidence that she was not aware how small her estate was. For the last 5 years Joan regularly had lunch with friends who were wealthier than her. At these lunches she often told her friends she was a multimillionaire who owned both a 'luxurious' home and a 'very expensive' car. In reality, Joan was not a millionaire. She lived in a modest apartment and her primary source of income was her Social Security benefits. This could be seen as evidence that she was not aware of how much she owned, or it could have been her trying to impress her wealthy friends. But it is known that Joan monitored her bank account regularly and reconciled her bank statements every month. Thus, due to her ability to independently manage her finances, it will likely be seen that Joan could reasonably identify her property to the degree required to execute a valid will.

Therefore, due to Joan being able to (1) identify her issue, and (2) identify her property, Joan will be found to have mental competence to draft a valid will.

3 There is an issue as to which relatives have standing to contest Joan's will.

Only family members who would take property through intestate succession have standing to challenge Joan's will. Thus Joan's surviving daughter and son have standing to challenge her will, but not her grandchildren.

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1. Joan's will is not invalid under the insane-delusion rule because her delusion did not have an impact on the will's formation or content.

Under the insane-delusion rule, a will is invalid if it was formed in relation to the insane delusion. An insane delusion is a belief which a reasonable person would not hold. Such a delusion is related to the formation of a will if the will, its provisions, or its designated beneficiaries were created or omitted as a result of the insane delusion.

Here, Joan has an insane-delusion. Due to her medication, Joan believes the male line of her family was "cursed" by Martians. A reasonable person does not believe in Martians or curses. Additionally, Joan herself would not believe the male line of her family was "cursed" by Martians if she was not taking the medication. Because a reasonable person would not believe the Martian curse, Joan's belief is an insane-delusion. The claims Joan made to her friends about being a "multimillionaire" with a "luxurious" home and "very expensive" car do not appear to be insane-delusions because there is no indication Joan actually believed those claims. Joan lived within her means, her primary income being Social Security benefits, in a modest apartment. She only sent her family inexpensive presents. She monitored her bank account and reconciled her bank statement every month. While a reasonable person would not believe Joan's claims with her knowledge of her bank account and bank statement, by living within her means it does not appear that Joan herself believed her claims, so she did not have an insane-delusion as to her wealth.

Joan's insane-delusion regarding the Martian curse did not impact the formation of the will, its provisions, or its designation of beneficiaries. The only provision of the will that may be indicated by Joan's insane-delusion of the Martian curse on her male line is Joan's omission of the male line from her will. However, Joan indicated to her lawyer that she left nothing to her male line because, "Leaving the males in my family anything valuable would be a complete waste on burglars and thieves." This is reasonable because Joan's son and grandsons had extensive criminal records for theft and burglary. Although Joan held the insane-delusion about the Martian curse on her male line, it was the reasonable concern about the male line's criminal records for theft and burglary rather than the insane delusion that led Joan to omit the male line from her will. Because the omission of the male line was based on a reasonable concern rather than Joan's insane delusion, the insane-delusion rule does not invalidate Joan's will.

2. Joan had the general mental capacity to execute a will.

The general mental capacity to execute a will is demonstrated if the testator had a general understanding of the significance of the act of creating a will, their property divisible in a will, and their natural heirs at the time the will was created. Other perceived weakness of mental capacity, or failure to meet these requirements at a time other than the creation of the will, do not invalidate a will.

Here, the only indication of Joan's potential lack of mental capacity is her insane-delusion regarding the Martian curse and her claims to her friends. As discussed above, Joan does not appear to believe her own claims of wealth and her insane-delusion did not impact her will. Further, Joan demonstrated the three factors required to meet general mental capacity to execute a will.

Joan knew the significance of creating the will, as demonstrated by her conversation with her lawyer. Joan wanted to leave her property to her daughter, and didn't want to leave anything to her male line because she didn't want to "waste" anything on "burglars and thieves." This demonstrated that Joan understood the significance of a will was devising her property to beneficiaries.

Joan had an understanding of her property. Despite her claims to her friends, Joan was aware of her modest means. She monitored her bank account, reconciled her bank statement, chose to live in a modest apartment, and sent only inexpensive gifts. Because she handled her own finances and lived within her means, Joan demonstrated her understanding of her property.

Joan was also aware of her natural heirs, as demonstrated by the conversation with her lawyer. Joan considered her daughter and her son in devising her will. Because her daughter and her son, and their progeny, were her only heirs, her mention of her children in her conversation with her lawyer demonstrated she had knowledge of her natural heirs.

Because Joan understood the significance of creating a will, her property, and her natural heirs, Joan had the general mental capacity to execute a will. Here will, therefore, cannot be invalidated based on a lack of general mental capacity.

3. Joan's son has standing to contest Joan's will.

A will can only be contested by one who would have taken, or taken more, under a previous will or, in the absence of a previous will, under the laws of intestacy. The laws of intestacy distribute a decedent's estate to their natural heirs. Specifically, to the decedent's spouse and children, if any. Regardless of intestacy distribution method (per stirpes, per capita, and variations), the estate distributions stop at the first living relative of each line. That is, if a decedent has children and grandchildren, the distribution will stop at the children if they are living and only pass to grandchildren whose parents pre-deceased the testator. The grandchildren will have the opportunity to inherit through their parents.

Here, Joan had no prior will, so there is no one to contest under that theory.

If Joan had died intestate, her children would have been her heirs. Although Joan has grandchildren, Joan's only children - her daughter and her son - are still living. Because the distribution of Joan's estate through intestacy would stop at her living children, Joan's grandchildren would not have a greater claim under intestacy than they do under Joan's will. Joan's daughter would only receive half of Joan's estate under intestacy but received the whole under Joan's will, so the daughter has no reason to contest the will. Joan's son, however, would receive half of Joan's estate through intestacy, but received nothing under Joan's will. Because Joan's son would have received under intestacy but not under the will, he has standing to contest Joan's will.

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ENTRY INTO HOME

The Fourth Amendment protects individuals from unreasonable searches and seizures. Generally, the Fourth Amendment permits searches based on valid search warrants supported by probable cause and particularly describing the places to be searched and the evidence sought. Here, the facts provide that the search warrant for Homeowner's house was valid.

Therefore, the main issues are whether the knock-and-announce rule was violated, and if so, whether a violation would result in suppression of the evidence resulting from that entry. Although police are typically required to knock and announce their presence before entering a home to execute a search warrant, that requirement is waived under certain circumstances, such as when doing so would alert the suspects and permit them to destroy evidence of the crime. That exception to the knock-and-announce requirement does not seem to apply here, because the police had no indication that Homeowner and Driver were in the process of destroying evidence or that there was any imminent risk of them doing so (compare cases in which officers smell marijuana burning or hear a toilet inside the home flushing as they approach). The officers here violated the knock-and-announce rule.

However, this violation would not result in exclusion of evidence. The exclusionary rule under the Fourth Amendment generally provides for suppression of fruits of unlawful searches, in order to deter official misconduct. However, the courts have held that violations of the knock-and-announce rule do not warrant suppression. Therefore, the entry into the home here would not itself result in suppression of any evidence.

SEIZURE OF MARIJUANA FROM DRIVER

Standing

A person has standing to contest a search or seizure on Fourth Amendment grounds only if he has standing. To have standing, he must have a reasonable expectation of privacy in the area searched. Here, although Driver was in Homeowner's home and therefore does not have standing to contest the officers' searches of areas in the home (since he was not a resident or overnight guest there), he does have a reasonable expectation of privacy in his own person. Since the marijuana was found in his back pants pocket, the Driver has standing to contest the search.

Warrant exception - plain feel

A warrant does not automatically allow searches of individuals inside the premises unless those individuals are named in the warrant. Since the warrant provided only for the search of Homeowner's home and not for the search of individuals' persons inside (and likely could not have provided for Driver's presence since it was coincidental that he was inside the home at the time the officers arrived), the officers would need independent justification to search Driver for evidence of a crime.

One exception to the Fourth Amendment's warrant requirement is the doctrine of plain view, which permits officers to seize objects that are immediately identifiable as contraband and observed when the officers are legitimately present in a given area. A corollary of the plain view doctrine is the plain feel doctrine, which similarly permits seizure of objects whose illegality is immediately apparent based on the officers' training and experience and is felt when the officer is legitimately searching some area by touch.

Under *Terry v. Ohio*, officers with a reasonable suspicion that a suspect is armed and dangerous may conduct a patdown of the suspect's outer clothing for weapons. The officer's patdown of Driver was likely legitimate here, since the officer observed a lump in the back pocket of Driver's pants and believed that it was a handgun. However, although she was justified in patting down Driver's back pocket, the plain feel doctrine does not apply here because a small soft bag felt through pants is not immediately identifiable as contraband. It could have been, for example, a soft wallet or a snack.

Since the officer was not justified in removing the object from Driver's pocket and discovered that it was illegal marijuana only after conducting an unreasonable search, that evidence should be suppressed.

SEIZURE OF COMPUTER FROM HOMEOWNER

Standing

Homeowner has a reasonable expectation of privacy in his home, so he has standing to challenge this search. The presence of a valid search warrant for the premises permits a limited search but does not negate his reasonable expectation of privacy in his home.

Warrant exception - plain view

Under the plain view doctrine discussed above, the seizure of the computer was proper. Officers executing a search warrant for counterfeit $100 bills may legitimately search any area on the premises described in the warrant that might reasonably contain evidence of the suspected crime. Here, the officers were likely legitimately present in the kitchen while executing the warrant and observed the computer sitting in the open.

Officers may run the serial number of an object such as a stereo or computer and remain within the contours of the plain view exception to the warrant requirement as long as they do not manipulate the object to access the serial number. Here, the serial number was located on top of the computer, so it would not require touching or moving the object to run it. Furthermore, an otherwise valid search may become unreasonable if prolonged substantially in duration beyond the scope of the original search. However, that limitation does not appear applicable here because the search was "quick" and used an app on the officer's cell phone.

Because after running the serial number, the computer was apparent as contraband, the plain view doctrine applies and its seizure was lawful. It should not be excluded from evidence.

SEIZURE OF NARCOTICS FROM HOMEOWNER

Standing

As discussed above, the Homeowner has standing to challenge this search on Fourth Amendment grounds.

Warrant exception - plain view

The plain view doctrine also governs this situation, since although the officers were legitimately present in the bedroom while executing a valid warrant, there is no reasonable belief that a transparent medicine bottle would contain evidence of counterfeiting--the crime for which the officers were permitted to search the home.

The issue here is whether an unlabeled bottle is immediately apparent as contraband. It is unlikely based on the totality of the circumstances--including the location of the medicine bottle in an area typical for storing prescribed medications (a bedroom nightstand) and the low quantity of medications (several pills, rather than, for example, a very high volume that would be unlikely to be prescribed at one time to an individual)--that a court would find this to be immediately apparent contraband. However, the officers might argue that it is unusual that a prescription bottle would be unlabeled and that this atypical situation warranted a reasonable belief that the pills were illegal drugs. On balance, it is unlikely that the plain view exception to the warrant requirement will apply here, and therefore Homeowner will be able to suppress that evidence.

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1. The issue is whether the manner in which the Officer's entered the house should result in the exclusion of evidence.

Under the Fourth Amendment a search is preemptively invalid if a valid warrant is not present. When Officers have a valid warrant to search a house, they may legally enter the house and search the house at whatever time the officer's deem reasonable to search for the items listed in the warrants. When entering a house with a valid search warrant, officers are required to follow the "knock-and-announce" rule. This rule requires that the officers knock on the door of the home and announce their authority to search the home as officers with a valid warrant. The warrant itself need not explicitly include the knock and announce requirement for it is generally applicable to all searches of homes conducted pursuant to a warrant as opposed to probable cause couples with an exigent circumstance. This knock and announce rule was created to ensure officer and civilian safety. Generally, when officers violate constitutional rules, such violations lead to exclusion of the evidence that stems from the violation pursuant to the fruit of the poisonous tree doctrine. However, if an officer violates the knock and announce rule by entering the home without knocking or announcing, the failure to do so will not result in the exclusion of the evidence seized in the absence of other constitutional violations.

In this case, the Officer's had a valid warrant to search the Homeowner's house. When the officer's arrived at the home they did not knock and announce their presence. Instead the officers kicked open Homeowner's front door. The officer's violated the knock and announce rule by entering without announcing their identity or knocking. However, this violation of the knock and announce rule does not trigger the fruit of the poisonous tree doctrine and will not result in evidence seized in the Homeowner's home from being admitted in court.

2a. The issue is whether the seizure of the marijuana from the driver violated the Driver's constitutional results and should thus be excluded

Under the Fourth Amendment, a seizure of evidence may not occur absent certain conditions. One of those conditions is a Terry Stop. A Terry stop occurs when an individual is detained for a brief period based on reasonable suspicion of criminal activity. A terry stop is not an arrest and thus does not require probable cause or warrant. A terry stop may also occur during a search warrant when officers find individuals located in the home to be searched. During a terry stop, if an officer has reasonable belief that the individual is armed and dangerous, the officer may perform a cursory pat down of the individual. During this cursory pat down the officer may not manipulate any objects that are felt on the person. This is also referred to as plain touch. If the officer does not feel through this plain touch any weapons of evidence of a crime, the officer may not reach into the pockets or further manipulate the object to discover their true identity. If an officer does so, such evidence was seized unconstitutionally and should not be admitted.

In this case, the officers properly detained the Homeowner and Driver in the hall near the front door while the second officer searched the house. The first officer then saw a lump in the back pocket of the Driver's pants. The Officer then reasonably believed that the object could be a handgun so conducted a pat down of the driver. During this pat down, the officer "could not determine what the object was by patting the outside of the Driver's pants." Since the officer was not able to determine the nature of the object through "plain touch" the officer was not authorized to further manipulate the object or go into the Driver's pants. When the officer illegally reached into the pocket of the driver, the Officer retrieved a plastic bag containing marijuana. As a result of the Officer's unauthorized search of the Driver's pants, the marijuana should be excluded as it is a direct fruit of the unconstitutional search of the Driver's pants.

2b. The issue is whether the officer seizure of the computer from the Homeowner was proper.

According to the 4th Amendment, when an officer is legally present in an area, they may seize any contraband that is in their plain view. The plain view exception is an exception to the warrant requirement. The officer generally may not move around objects or manipulate objects to get a better view unless authorized to do so.

Here, the second officer was in the home pursuant to a valid search warrant. The search warrant listed counterfiet $100 bills as the objects to be seized. The Officer went into the homeowner's kitchen and saw the desktop computer sitting on the Homeowner's kitchen counter. Without manipulating the computer, the officer was able to see a serial number that was visible on top of the computer. This was an authorized use of the plain view exception. The officer then searched the number and discovered that it was stolen equipment and seized the computer. This evidence should not be excluded because it was seized pursuant to a valid use of the plain view exception.

2c. The issue is whether the officer's seizure of the narcotics from the Homeowner was proper

When an officer conducts a search warrant that lists specific identifiable items to be searched they may not search the home for places in which it would be unreasonable to think that the item could be. Searches of such areas will likely be deemed unconstitutional.

In this case, the second officer found a two-inch tall, unlabeled transparent medicine bottle that contained several pills with no markings on them. The officer through plain view was not able to determine the substance of the pills and had no reason to believe the pills were contraband. The subject of the search warrant was counterfeit bills and such bills were clearly not present in the transparent bottle. No other facts were presented to suggest that officer based on any experience or knowledge knew the pills were illegal. Thus, the officer had no probable cause to seize the pills and the pills should not be admitted into evidence

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Question MEE 3 - February 2023 - Selected Answer 1

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1. Third-Party Complaint v. Insurance Co

A third-party impleader action is permissible where the original defendant claims that the third-party (3P) is responsible for all or part of any liability found for the original defendant. This indemnification action for the insurance company must have arisen out of the same transaction or occurrence and that the party claims the 3P is liable for all or part as contribution for their potential liability. In this case, we know that there was an accident between Man and Woman in State B. Also that Woman claims her insurance company should indemnify her in the action by Man v. Woman in State B fed dist. court. There are some issues about whether W was actually covered at the time by Insurance, but nonetheless, her impleaded complaint was based on the same t/o as the original complaint (the car wreck) and that the W is claiming the insurance company is liable for all or part of her potential damages through indemnification. The issue of personal jurisdiction will be addressed in the second question. However, on the basis of just the validity of claiming that Insurance should be impleaded in order to indemnify the W in this action, the Insurance company would be a proper 3P-Defendant because the W is claiming they are liable for all or part of the W's potential liability and that this arose from the same t/o as the original complaint.

2. PJx over Insurance?

Under the due process clause, for a court to have personal jurisdiction (PJx) over a party, that party must have sufficient minimum contacts with the state such that it would comport with traditional notions of fairness to bring that party into court. This has to do with purposeful availment of the laws and benefits of the state. A corporation typically has two places of domicile, where they are headquartered and where they have their principal place of business (PPB). There are several basis on which to obtain PJx over an out-of-state defendant, such as the bulge provision, which allows PJx up to 100 miles from the location of the district court. In this case, we know that Insurance is HQ in State A and that it has no business or facilities in State B. These factors cut against a finding of PJx. However, Big Cit in State A is just 10 miles apart from Small Town in State B. Insurance was HQ in Big City and the cause of action was filed in Small Town Fed. District Court. Because these are well within the 100 miles of the bulge provision, the State B fed district court can obtain PJx over Insurance.

3. Actions to Allow Immediate Appeal of W's Complaint v. Insurance

To be appealable, a judgment must be final. However, there are certain interlocutory appeals allowed in a limited number of circumstances. One such circumstance can be where the federal court who has denied a litigant from bringing a complaint is to declare that it is immediately appealable when it is in the interests of justice to do so. When the judge makes a ruling that the issue is appealable despite it normally being prohibited by the final judgment rule, the appellate court may then hear the issue. In this case, the W's complaint against Insurance was dismissed. Because this is part of a larger cause of action (Man v. Woman), this order would not have been immediately appealable until after the conclusion of the main case. However, because this dismissal plays such a central role in the underlying cause of action, the court could declare that this part of the ruling is "final" within the allowance of the final judgment rule and authorize the appellate courts to review the action.

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1. Whether the woman may bring the company into the action as a third-party defendant

The Federal Rules of Civil Procedure (FRCP) permit the woman to bring the company into the action as a third-party defendant. As issue is whether the action is proper under the federal impleader rules.

Under the FRCP, a defendant may "implead" a third party defendant if the defendant claims that such party is responsible for indemnifying or is otherwise vicariously liable for any liability the defendant owes to the plaintiff in the main action. For joinder of third parties generally, the claims must be based on the same transaction or occurrence at issue in the main action, and there must be at least one common question of law or fact.

Here, the woman is claiming that the insurance company must defend her in the man's suit against her for the car accident, and that it must indemnify her if she is found liable to the man. Thus, the woman is claiming that to the extent she is liable to the man, the insurance company must pay (i.e., indemnify her). This meets the requirements of the federal impleader rules such that the woman can properly bring in the insurance company as a third party defendant.

Furthermore, the general joinder requirements are met, since the woman's claim against the insurance company is related to the car accident at issue in the main action (the same transaction and occurrence) and there are common questions of fact that relate to both actions (e.g., whether the woman's negligent driving caused the accident such that she is liable to the man, triggering the company's requirement to pay).

2. Whether the court has personal jurisdiction over the company

The State B court has personal jurisdiction over the company despite its lack of contacts with State B.

In order for a federal court to have personal jurisdiction over an out-of-state party, there must be a relevant state long-arm statute authorizing the jurisdiction. Often, these statutes overlap with the constitutional requirements of personal jurisdiction.

Under the constitution, personal jurisdiction may be general or specific. A court has general personal jurisdiction over parties who are "at home" in the forum (e.g., domiciled in the forum) or who are personally served while in the state. Companies reside in the one state where their principal place of business is located and any state under whose laws they are incorporated.

For specific jurisdiction (where jurisdiction is based on a specific action), there must have been (i) sufficient minimum contacts between the defendant and the forum state such that exercise of personal jurisdiction is fair and reasonable, (ii) the defendant's contacts must be related to the action in the litigation, and (iii) the exercise of jurisdiction must be fair.

Here, State B does not have general jurisdiction over the insurance company, since its principal place of business is in State A, and it was served in State A.

However, the State B court likely has specific personal jurisdiction over the insurance company. While the company does no business in State B and has no facilities in State B, the court could nevertheless find that the company's decision to insure woman and others for car accidents (many of which are likely to occur in nearby towns in other states, such as Small Town) are sufficient minimum contacts such that the company purposely availed itself of State B. Company certainly knows that its drivers will enter other states and that it could foreseeably be sued in other states given the nature of its business. This is especially true, given how close Big City and Small Town are to each other (just a 10 mile distance).

These contacts by the company (insuring drivers) are directly related to the action at hand, since the woman was insured by the company and her claim against the company is based on a car accident in State B.

Finally, there are no factors indicating that exercise of personal jurisdiction over the company would be unfair. The court will examine whether the exercise would be so unreasonable as to put the defendant at a severe disadvantage in the action. Here, Small town (where the District of State B clerk's office is located) is just 10 miles away, and company certainly has enough resources to be able to attend court there without severe disadvantage. Furthermore, State B has an interest in providing a forum for its citizen (the man) to obtain relief, and man has an interest in litigating there for convenience.

Thus, the court has personal jurisdiction over the company.

2. Actions to allow the woman to immediately appeal dismissal of her complaint, and whether court should do so

To immediately appeal the dismissal of her complaint, the court could make a finding that there is no just reason for delay and direct the entry of a final judgment.

Generally, under the FRCP, a party may only appeal a case when the district court has dispensed with all the claims and parties in a case and has entered a final judgment on the case. Interlocutory orders, such as dismissal of a third party complaint, are generally not appealable until the main case is dispensed with.

However, where there are multiple claims and parties in a case, it is possible for the district court judge to make a decision with regard to one of the claims, and make an explicit finding that there is no just reason for delay and that a final order be entered. In these cases, a party may appeal the decision immediately. A court may make this finding in the interests of justice.

Here, it would serve the interests of justice for the court to do so. The woman is claiming that the insurance company is required to defend her in the man's suit, in addition to indemnifying her for liability. Here, her claim to join it as a third party defendant was denied. If she was not able to immediately appeal, she would have to

fund the lawsuit herself, and would lose the ability to have the insurance company provide an attorney for her. Her only recourse would be indemnification after the fact. Because this could be detrimental to the woman, and because there are no other reasons why it would be more just to wait until the entire action is complete, it would serve the interests of justice to enter a final order on the dismissal of her third party complaint and find that there is no just reason for delay.

In addition, the woman may be able to seek immediate appeal of the dismissal of her third party complaint under the Interlocutory Appeals Act. Under that statute, if a judge finds that there is a controlling issue of law for which there is substantial basis for a difference in opinion, and if a ruling by the appeals court would assist in dispensing with the rest of the case, the judge may make a special order allowing the issue to be heard on appeal. Two judges on the relevant appeals court must also agree to hear the case in their discretion. This is an unlikely path here, and so the woman would be best served by pursuing the approach described above.

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******* MEE 4 STARTS HERE *******

Does the furniture store have an enforceable and perfected security interest in the couch used for business (equipment)?

The store's interest has attached to the collateral, but the store does not have a perfected security interest. Attachment is the creation of the security interest. It is what makes the security interest enforceable against the debtor. The requirements of attachment are (1) an agreement between the secured party and debtor to create a security interest (most often evidenced by a security agreement), (2) the secured party must pay valuable consideration for the interest, and (3) the debtor must retain rights in the collateral. A security agreement must be recorded (in writing), acknowledged by the debtor (usually by signature), and reasonably identify the property. Here, the lawyer purchased the couch on credit and the seller retained a security interest (PMSI). The parties entered into an agreement that was signed by the debtor and described the property by manufacturer and model number. These acts are evidence of the intent to create a security interest and satisfy all of the requirements for the security agreement. Furthermore, the store paid valuable consideration because they loaned the couch to the lawyer, and the lawyer retained rights in the collateral (possession). Therefore, the attachment requirements are satisfied, and the security interest is enforceable against the lawyer.

Perfection of a security interest can be described as a secured party obtaining priority over other secured party's with an interest in the same collateral. To have perfection, there must be attachment (see above). The type of perfection that is authorized depends on the classification of the goods. This is a couch (tangible good), and tangible goods are classified based on their use. The couch was used for business purposes; therefore, under UCC Art. 9, it is classified as equipment. Equipment can be perfected either by possession or by filing a financing statement with the Secretary of State's office whether the debtor is a resident. Here, the furniture store did not take actual possession of the goods nor did the store file a financing statement. Therefore, the store's interest is not perfected.

Does the furniture store have an enforceable and perfected security interest in the table (consumer good)?

The store has an enforceable and perfected security interest in the store. The issue is whether the "special financing deal" created a valid security interest and whether there has been perfection. When a party sells goods on credit and retains title to the property until it is paid off, this is tantamount to a security interest under the UCC. Regardless of how the interest is described or the name it is given, the agreement will be treated as a security interest in the collateral. Furthermore, a sell of good on credit to a buyer where the seller retains a security interest is a purchase money security interest. Here, the store sold the table to the lawyer on credit and retained title. Therefore, this is a PMSI. The parties signed an agreement that reasonably identified the property. Also, the store paid valuable consideration by delivering the couch and the debtor retained rights in the table. Therefore, these facts evidence that all requirements for attachment have been satisfied. [See rule statement above]

Because this is consumer goods (goods used for personal, family, or household purposes) and the seller has a PMSI, there is automatic perfection of the table. Therefore, the store has a perfected security interest in the table.

Does the state Y store have an enforceable and perfected security interest in the desk used for business purposes (equipment)?

The state Y store has an enforceable security interest (attachment satisfied) but does not have a perfected security interest because the financing statement was filed in state Y. The issue is where the financing statement must be filed to be perfected.

The lawyer purchased the desk from state Y store on credit, and the state Y store retained a security interest (PMSI). The security interest was evidenced by an agreement signed by the debtor and that reasonably identified the property. Therefore, requirements for attachment have been met. Subsequently, the state filed a financing statement in state Y (the location of the property). However, this was improper. The state Y store will have to file a financing statement in the state where the lawyer resides (where they are at home), which is state X. Therefore, the financing statement has not been filed in the correct place. Therefore, state Y's security interest in the desk is not perfected.

******* MEE 4 ENDS HERE *******

Question MEE 4 - February 2023 - Selected Answer 2

******* MEE 4 STARTS HERE *******

1. Does State X furniture Store (XF) have an enforceable and perfected security interest in the couch used by the lawyer in her office waiting room in State X? Explain.

The issue is whether XF created a security interest in the couch and perfected it.

Goods purchased not for inventory, farm inventory or consumer goods are classified as equipment. A security interest is created (called attachment) by the secured party either taking possession or control over the collateral, or executing a Security Agreement with the debtor including a reasonable description of the equipment, the names of debtor and creditor and the debtor's signature, authenticating the document; by the secured party giving value; and, by the Debtor having rights in the collateral. Attachment occurs when the third (in any order) of those requirements is complete. To perfect that interest against third party claimants, the secured party must file a financing statement or take possession or control. If this were a PMSI (described below) over consumer goods, it would be automatically perfected. If it is for equipment, it requires the filing of a financing statement or possession or control. A PMSI is a purchase money security interest. That occurs when the loan is used to acquire the collateral. That would grant superior priority if it were the case.

Here, the couch is being purchased to be used in the attorney's practice, and as such, it is equipment. XF lent the money to the buyer for the acquisition of the collateral in which they took the security interest (the couch), so it is a PMSI on equipment. The L has rights in the Couch because she bought it. However, XF did not retain possession nor file a financing statement, so it is not perfected. The store did sign a security agreement with the L which described the collateral, had both parties information and was signed by the debtor, thus the security interest attached.

Therefore, XF does have an enforceable security interest in the couch, but that interest is not perfected.

2. Does the State X furniture Store have an enforceable and perfected security interest in the table used by the lawyer in her dining room in State X. Explain.

The issue is whether a security interest attached in the table, and whether that interest was perfected by the store.

A PMSI in consumer goods is automatically perfected upon attachment of the security interest. When a store claims to retain title to the goods until payment is complete, Article 9 treats that as a security interest in the goods. Consumer goods are those purchased for personal or home use.

Here, the security interest attached once the debtor signed the agreement including the language that the store would retain title until payment was complete. The secured party, the store, gave value by providing the credit, and the debtor had rights in the table having purchased it. The table was Consumer Goods as it was purchased to be used at the attorney's home. And the security interest automatically was perfected once attached because the security interest was in consumer goods.

Therefore, XF has an enforceable and perfected security interest in the table used by the lawyer in her dining room in state X.

3. Does the State Y furniture store have an enforceable and perfected security interest in the desk used by the lawyer in her office in State Y. Explain.

The issues are: 1) was a security interest created/attached, 2) was it perfected, and 3) does the fact that the debtor lives in State X, not State Y, impact that perfection.

If a security interest is taken by a debtor whose primary residence is out of state, and the collateral is moveable, i.e., neither land nor fixtures on land in the state where the collateral resides, to be perfected, the secured party must file that financing statement in the resident state of the debtor.

The State Y furniture store had the debtor sign a security agreement with them that established a security interest in the desk, presumably naming both the debtor who signed, and the secured party who retained the security interest, and the store gave credit, thus value, and the L bought the desk, and thus had rights in it. The security agreement attached on signing. The purpose of filing a financing statement is to alert third parties to the fact of the security interest in the collateral. While there is no harm done by having filed in the state where the moveable collateral (the desk) is located, it must file in the state where the debtor resides as its primary residence, which here is State X. The attorney lives in state X as her primary residence. The store should have filed in State X.

Therefore, the State Y furniture store does have a security interest in the desk, but does not have a perfected security interest as the debtor resides in State X and no financing statement was filed there.

******* MEE 4 ENDS HERE *******

******* MEE 5 STARTS HERE *******

1. **W ndy acquired title to Central Acre by adverse possession in 2020.**

Adverse possession requires that a claimant have 1) actual, 2) open and notorious, 3) continuous; 4) hostile, and 5) exclusive possession of the land at issue for the length of time designated by statute. Here, the court found that Wendy's possession of Central Acre fulfilled all of these requirements from 2010 to the end of 2021, which meets the jurisdiction's 10-year requirement.

This state's applicable statute provides that, if a would-be adverse possessor's cause of action arose prior to the owner reaching the age of 18, the owner may bring an action to recover title within 5 years of the owner reaching the age of 18. Here, Mary, the putative owner, was under 18 when she received title to Central Acre. However, the cause of action arose when Wendy first exclusively possessed Central Acre, not when Mary gained title. Consequently, the proviso of the statute that provides that Mary might have recovered title is inoperable here. Further, it doesn't matter that she ceased to occupy the land after the requisite period had already run. Therefore, Wendy acquired valid title to Central Acre in 2020, and she should be successful in her action to quiet title against Mary.

2.

(a) **Wendy also acquired title to Western Acre in 2020 via color of title.**

When an adverse possessor is under "color of title" and acquires title to a portion of the land in the purported deed via adverse possession, they also gain title to the whole of the property described by such deed, even if they did not otherwise meet all of the requirements of adverse possession for the whole of the land.

Here, Wendy had a deed which purported to cover all of Western, Central, and Eastern Acres. As discussed above, she validly acquired title to Central Acre in 2020. Because her deed also described Western Acre, she gained title to that parcel at the same time as Central Acre, despite not having actual possession of it during the statutory period.

(b) **Wendy did not acquire title to Eastern Acre in 2020 because she never occupied Beth's land.**

As noted above, when an adverse possessor is under "color of title" and acquires title to a portion of the land in the purported deed via adverse possession, they also gain title to the whole of the property described by such deed, even if they did not otherwise meet all of the requirements of adverse possession for the whole of the land. However, this doctrine is not applicable where the adverse possessor is acquiring title against a different owner than the putative owner, even if the putative owner's land is described in the applicable deed.

Here, although Wendy successfully adversely possessed both Central and Western Acres, as discussed above, she adversely possessed the those parcels against John/Mary, rather than Beth, who owns Eastern Acre. Therefore,

color of title will not sweep Eastern Acre into Wendy's successful adverse possession. Because she never actually came into possession of any portion of Eastern Acre, and color of title is not applicable here, Wendy did not adversely possess Eastern Acre and her action to quiet title against Beth should fail.

******* MEE 5 ENDS HERE *******

******* MEE 5 STARTS HERE *******

I. Did Wendy Acquire Title to Central Acre by Adverse Possession?

The first issue is whether the quitclaim deed Wendy received in 2009 actually transferred title to her.

John and Beth purchased the land in 2005, and they both validly recorded their deeds. This put any future purchaser on notice that the land was owned by John and Beth, regardless of the recording statute. Thus, Wendy was on notice when she received a quitclaim deed from one of Smith's descendants that that person did not own the land and could not transfer it to her. Wendy is not a bona-fide purchaser, and her 2009 quitclaim deed did not give her title to the property. John and Beth still owned the property.

The second issue is whether Wendy adversely possessed Central Acre for the statutory period.

To acquire title by adverse possession, possession must be continuous for the statutory period, open and notorious, actual and exclusive, and hostile (i.e., against the wishes of the actual owner. The statute here provides that the statutory period is 10 years; thus, to acquire title, Wendy must have adversely possessed Central Acre for 10 years. The statute also provides that if the true owner is under the age of 18 when the cause of action accrues (i.e., when the adverse possessor begins adversely possession), the statutory period is tolled until five years after reaching the age of 18. However, under adverse possession law, if the adverse possession period begins when the true owner is not a minor or under any other disability, the period begins then, regardless of whether later the property passes to a true owner under the age of 18 or whether the true owner develops a disability preventing them from bringing the action.

Here, Wendy began to occupy Central Acre on January 1, 2010, and she possessed it in a manner that was actual, open and notorious, continuous and exclusive, and hostile and under claim of right until the end of 2021, which was eleven years. Furthermore, the statutory period was not tolled, because in 2010 when she began possessing it, John was the true owner, and he was an adult and not under a disability. Thus, the adverse possession period ran from 2010 to 2020.

John's death in 2016 and Mary's subsequent inheritance of Central Acre does not toll the statutory period. The statute provides that tolling occurs if the true owner is a minor at the time the cause of action accrued--which was in 2010. Even though the parcel later passed to a minor, Mary may not use this to toll the statutory period and defend against Wendy's claim to Central Acre.

Thus, Wendy possessed Central Acre for the statutory period in a manner that was continuous, open and notorious, adverse and exclusive, and

In 2020, Wendy acquired titled by adverse possession to Central Acre.

II(a). If So, Did She Also Acquire Title to Western Acre?

The issue is whether Wendy also constructively possessed Western Acre.

When a party adversely possesses some but not all of a piece of property (here, Western Acre and Central Acre together), he may be able to obtain the rest of the property as well if he occupied the property under claim of right.

Wendy occupied Central Acre during the statutory period, but she never possessed Western Acre. However, the quitclaim deed she had purportedly conveyed Western Acre to her as well, and thus she had a claim of right to Western Acre. Moreover, John never possessed Western Acre either.

Because Wendy has obtained title by adverse possession to Central Acre, and she had a deed purported conveying Western Acre to her as well (i.e., she had claim of right to Western Acre as well), she also acquired title to Western Acre by adverse possession.

Wendy also acquired title to Western Acre in 2020.

II(b). Did She Also Acquire Title to Eastern Acre?

The issue is whether a party can obtain title by adverse possession to property they have claim of right to if they only occupied property owned by a different owner.

The same rules for obtaining title by adverse possession when a party occupies only part of the property but has claim of right to the whole discussed above apply here. As discussed above, adverse possession must be hostile to the true owner of the property.

Here, John owned Central and Western Acre, and Beth owned Eastern Acre. Wendy possessed only Central Acre. Thus, she did not engage in any possession that was hostile to Beth, and she cannot be held to have acquired title by adverse possession to any land owned by Beth, even though her quitclaim deed purported to convey Eastern Acre to Wendy as well. Because Wendy did not adversely possess any interest of Beth's she did not satisfy the requirements of adverse possession.

Wendy did not acquire title to Eastern Acre in 2020.

******* MEE 5 ENDS HERE *******

******* MEE 6 STARTS HERE *******

1. Admissions Defendant made in connection with withdrawn guilty plea

The court should grant the Defendant's motion to exclude the statements he made in connection with his withdrawn guilty plea. At issue is whether the statements should be excluded for policy reasons.

Generally, all relevant evidence is admissible in federal court absent an exclusionary rule in the Federal Rules of Evidence. One such exception is that hearsay evidence is generally not admissible. Hearsay is an out of court statement offered to prove the truth of the matter asserted. There are also certain categories of hearsay that, while they meet the technical definition, are considered "non-hearsay" and are thus admissible. One such category of nonhearsay is opposing party statements, which are statements made by a party out of court and are offered against that party. These are admissible nonhearsay.

There are other categories of evidence that are inadmissible for public policy reasons. One such category is statements made in connection with guilty pleas. Because we want to encourage the settlement of disputes and seeking criminal justice efficiently, we want to encourage candor of criminal defendants when making guilty pleas. Thus, statements made in connection with later withdrawn guilty pleas are excluded from evidence for public policy reasons.

Here, the statements made by Defendant that he knew about the hole in the closet and that he used it to spy on Plaintiff were out-of-court statements that would be offered by the Plaintiff to prove the truth of the matter asserted (i.e., that he did what she is claiming he did). Thus, they would normally be admissible nonhearsay as opposing party statements.

However, because Defendant made the statements in connection with a withdrawn guilty plea for his criminal charge of voyeurism for the same conduct, the court will exclude them for public policy reasons.

2. Deposition testimony of the man re: Defendant's past actions

The court should deny the Defendant's motion to exclude the prior testimony of the man regarding Defendant's past use of the hole to spy on the man.

The first issue is whether this statement would be admissible despite appearing to be inadmissible character evidence in a criminal case. Generally, evidence of prior bad acts are not admissible to show that a party acted in conformity with their propensity to commit such bad acts.

However, this type of evidence may be admissible if it is for a non-propensity purpose, such as to know a party's knowledge or awareness of a certain fact, intent, or to show evidence of a common plan or scheme.

Here, the man's testimony would not be admissible to prove that the Defendant has a propensity to spy on his tenants, and thus that he likely did so to Plaintiff. However, a key issue in the case is whether Defendant had the intent to spy on plaintiff, and whether he was aware of the existence of the peep hole (since he denied its existence in the civil case). The man's testimony shows that Defendant had knowledge of the hole, and also goes to his intent to spy on the Plaintiff. It also might show a "common plan or scheme," such that the landlord rents to tenants for the purpose of spying on them. Thus, the evidence would be admissible only for those purposes.

The second issue is whether the statements are inadmissible hearsay. The statements, as discussed above, are not offered for the truth of the matter asserted (i.e., that the Defendant in fact spied on the man and/or the Plaintiff). Even if they were considered admitted for that purpose, they would be admissible hearsay under the former testimony exception. This exception provides that the former testimony of a now unavailable witness is admissible where the party against which it is offered (here the Defendant) had the opportunity to fully cross-examine the statement, and it was made under oath. The man's testimony here was made under oath, in the presence of the Defendant and his attorney, and they had an opportunity to cross examine him. He presently lives hundreds of miles away, and the Plaintiff had been unable to compel him to testify in person. Thus, he is unavailable under the federal rules' definition, and the testimony is admissible hearsay if admissible for its truth.

3. Evidence that Plaintiff plagiarized her senior thesis and lied on her graduate school application

The court should grant Plaintiff's motion to exclude the evidence that she plagiarized her senior thesis and lied about it on her graduate school application, except the court should permit cross-examination of the plaintiff about these matters.

When a witness testifies in court, their character for truthfulness becomes relevant. Thus, the opposing party may impeach their credibility using certain allowed methods.

With regard to prior bad acts that are probative of truthfulness, the opposing party may ask the witness about these acts on cross-examination, but they may not introduce any extrinsic evidence to prove the bad acts, even if the witness denies them. This includes testimony of other witnesses and other evidence.

Here, the Plaintiff plans to testify at trial, so her character for truthfulness is in issue and she may be properly impeached. The plagiarizing of her senior thesis and lying about it on her graduate school application are certainly probative of truthfulness, since they are acts involving dishonesty and making false statements. While defense counsel may cross examine her about these actions while she is on the stand (assuming there is a good-faith basis to believe the allegations are truth), the defense may not introduce extrinsic evidence even if the Plaintiff having plagiarized or lied.

******* MEE 6 ENDS HERE *******

******* MEE 6 STARTS HERE *******

I. Admissions of Defendant in Connection with Withdrawn Guilty Plea

The issue is whether admissions made in connection with a guilty plea that is later withdrawn are admissible.

While an opposing party's admissions are an exception to the hearsay rule and generally may be introduced, there is a public policy exception for admissions made in connection with a guilty plea that is withdrawn. Such statements may not be introduced.

Evidence is generally relevant if it is material and probative---if it makes any material fact in the case more or less likely. This evidence is relevant--Defendant stated that he knew about the hole in the closet and had repeatedly used it to spy on Plaintiff while she was dressing, which makes it more likely that he knew that the hole existed and that he was in the closet to spy on Plaintiff. However, Defendant made these statements in connection with a guilty plea that he later withdrew, and that criminal case is still pending. Thus, these statements will not be admissible due to public policy.

The court should grant the motion to exclude the statements Defendant made in court while pleading guilty to the voyeurism charge.

II. Deposition Testimony of Man

The issue is whether the former testimony exception to the hearsay rule applies and whether the incident constitutes impermissible character evidence.

Evidence is generally relevant if it is material and probative---if it makes any material fact in the case more or less likely. The deposition testimony is relevant--the man stated that he had once confronted Defendant about the utility closet when he caught Defendant watching him under similar circumstances. The similar circumstances make it more likely that Defendant did the same thing to Plaintiff, so the evidence is relevant.

Another question is whether this evidence constitutes impermissible character evidence, which is substantive evidence introduced to suggest that because Defendant did something bad before, he likely did it again here (propensity). Character evidence is generally not admissible in civil cases unless it is directly at issue or it is being used for a purpose other than showing that Defendant is more likely to have done something because he did it before. Character evidence may be introduced to show intent, modis operandi, or absence of mistake where those are in dispute.

Here, Defendant is disputing that he knew of the hole and that he was in the closet to spy on Plaintiff. The man's evidence tends to show that Defendant has a modis operandi of spying on tenants from utility closets, and that he is aware it could be done. Thus, it can be used to show intent, absense of mistake, and modis operandi, and so may be introduced.

A final question is whether the introduction of this deposition testimony is impermissible hearsay. Hearsay is an out-of-court statement, other than one offered during the same trial, offered to prove the truth of the matter. Hearsay may be introduced if an exception applies.

Here, the man's testimony is being offered for the truth of the matter--that Defendant watches tenants from utility closets. The former testimony exception to the hearsay rule applies. This rule requires that the declarant (speaker) be unavailable at trial--this includes people who are outside the jurisdiction of the court and who refuse to show up. Here, the man works in a jurisdiction hundreds of miles from state A and has refused to attend the trial and testify in person despite extensive efforts from Plaintiff to convince him to do so. Thus, he is unavailable. For the former testimony exception to apply, the declarant must have given testimony under oath at a prior time, and Defendant must have had the opportunity to thoroughly cross-examine him.

Here, the man testified at a deposition, Defendant and his attorney were present at the deposition, and they had the opportunity to cross-examine him. Thus, the requirements for the former testimony exception are met, and the deposition testimony is not inadmissible hearsay.

The man's deposition testimony is relevant, it is not impermissible character evidence, and it qualifies for a hearsay exception under the former testimony exception to the hearsay rule. Therefore, the court should deny the motion to exclude the deposition testimony of the man.

III. Evidence that Plaintiff Plagiarized her Senior Thesis and Lied on Application

The issue is whether this information is relevant to the case to be introduced as substantive evidence or whether it may be used as impeachment evidence.

Regarding its introduction as substantive evidence, although this evidence does not appear too relevant to the case, relevance is a low bar, and its possible there could be a relevancy basis for the evidence. Regardless, it constitutes impermissible character evidence. As discussed more thoroughly above, character evidence is generally inadmissible in civil cases unless directly in issue or used to show something other than propensity. Plaintiff's honesty or past incidents of fraud are not directly at issue in this case, and there is no use for it to show anything other than propensity. Therefore, this evidence is not admissible substantively.

However, it is admissible as impeachment evidence, provided that no extrinsic evidence is admitted. A person testifying at a trial may be impeached through prior bad acts bearing on their honesty, provided that they are only asked about it and no extrinsic (outside) evidence is permitted. Thus, Defendant's counsel is permitted to cross-examine Plaintiff about plagiarizing her senior thesis in college and lying about it on her graduate school application. However, he may not introduce extrinsic evidence of it.

The court should grant in part and deny in part Plaintiff's motion to exclude. The Court should exclude this evidence for substantive purposes and should bar the introduction of extrinsic evidence relating to it. However, the Court should not prevent Defendant's counsel from cross-examining Plaintiff about it while she is on the stand. the Court can issue a limiting instruction so that this evidence is only used for that purpose.

******* MEE 6 ENDS HERE *******