

Problem 11A.

Lance Elliott is a small-time drug dealer. He is charged with attempted murder for stabbing David Joseph. Elliott says he was selling marijuana to Joseph when Joseph got violent and attacked him, so he was acting in self defense.

A private criminal defense attorney representing Elliott receives the following discovery requests from the prosecutor:

1. Did Lance Elliott give you a knife? If so, produce the knife for forensic testing.
2. What is the name and address of the person or organization who is paying you to represent Elliott, how much are you being paid, and how much of it is being paid in currency?
3. Produce the notes you took at your initial interview with Elliott.
4. Produce a sample of Elliott's blood for forensic testing.
5. Describe any conversations with Elliott about his ongoing relationship with the person who has been supplying his drugs.

Think through the arguments for and against making a claim of privilege in any of these situations.

Problem 11B.

A former law student named Deck Shifflet failed the bar twice and has sued Indiana University Maurer School of Law for educational malpractice, seeking return of his tuition. He was particularly concerned with his poor evidence grade, arguing that the online classes fell below the standards of the profession. At the request of the dean, the evidence professor involved met several times with Jackie Simmons, university counsel, to discuss what happened and describe how the classes were created. During the professor's deposition, Shifflet asks the professor to describe his meetings with the university counsel's office.

Think through the arguments for and against asserting a claim of privilege in this situation, including who would make it.

Problem 11C,

In problem 11A, suppose Lance asserts an insanity defense. He has been in private therapy for the past five years to treat his violent outbursts and inability to control his anger. The prosecutor calls the therapist as a witness and asks him to describe the nature of Lance's anger control issues.

Think through the arguments for and against asserting a claim of privilege in this situation, including who would make it, when it would be made, and what the response would be.