

## SAMPLE EXAM -- GRADUATE & EXCHANGE STUDENTS

### INSTRUCTIONS:

There are 11 questions. You have 3 hours 30 minutes.

- 1) This is an OPEN BOOK exam. You may refer to books, your computer, your notes, and a dictionary. A copy of the Federal Rules of Evidence is attached to the end of the exam.
- 2) The exam consists of a transcript of an imaginary trial. At various times the transcript is interrupted and you are asked to make or respond to an objection. You should read the question carefully, and answer it in a short, succinct, specific way, explaining your rationale. Objections and responses should be phrased as if you were speaking to the judge. Using proper objection procedure counts toward your grade.
- 3) **You must write your answers on the examination in the spaces provided. No bluebooks are to be used**, except as scratch paper. You may *not* use additional space except to compensate for material you crossed out. If you cross out an answer and write a new one, please put the answer on the back of the preceding page.
- 4) Following each interruption, the judge will make a ruling. You should draw no inference from the rulings -- the judge has to make some kind of ruling in order for the trial to continue, and will often will rule incorrectly.
- 5) Throughout the exam, assume the case is being tried to a jury. Base your answers on the Federal Rules of Evidence and any other general legal principles of evidence you can remember. Ignore any tactical considerations.

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This exam is based on the fictional case of Linda Thompson vs. Lisa-Marie Presley and the First Memphis Bank and Trust Company. Linda Thompson was Elvis Presley's live-in girlfriend in 1977 when he allegedly died. Lisa-Marie Presley is Elvis' only child, who inherited most of Elvis' estate under his will. Under the terms of the will, the bulk of the estate was put in trust supervised by the First Memphis Bank. Lisa-Marie is due to receive the residue of the estate soon, which includes sole title to Elvis' former home, Graceland. She is a member of the Church of Scientology, a west coast quasi-religious cult, and has said she plans to give Graceland to the Church to use as its new national headquarters. Linda Thompson has sued Lisa-Marie and the Bank to prevent this disbursement from the trust, alleging that Elvis is still alive. The defendants claim Elvis is dead. No statutes control the outcome.

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COURT: The plaintiff may call its first witness.

PLAINTIFF'S ATTORNEY: Thank you, your honor. We call Verena Deuble. She is a German citizen, your honor.

BAILIFF: Do you speak and understand English?

WITNESS: Only a little.

BAILIFF: Do you swear or affirm to tell the truth in this matter?

WITNESS: Was is das? I do not hear good. I am deaf.

BAILIFF (louder): Do you swear to tell the truth?

WITNESS: Oh, ja, yes.

DEFENSE ATTORNEY: Your honor, we object to any further testimony by this witness. She is incompetent to be a witness. She is almost 90 years old and believes that Elvis is sending her letters and neither speaks nor understands English very well.

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1. How should plaintiff respond to this objection?

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COURT: Overruled.

BAILIFF: State your name and address for the record, please.

WITNESS: Verena Deuble. I live in Bad Nauheim, Germany.

Q: Ms. Deuble, how old are you?

A: 87 or 88; I'm not sure.

Q: Were you recently given an award by the Israeli government for saving the lives of a Jewish family in the Second World War?

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2. What objection(s) could the defense attorney make?

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COURT: Overruled (not necessarily the correct ruling).

A: Yes, I was.

Q: Are you acquainted with Elvis Presley?

A: Yes I am. I met him when he was in the U.S. Army. He was stationed near my home in 1958. The food on the army base was so bad, that he and some of his buddies would come over to my house whenever they could get away, and I would fix them sandwiches. He was a nice young man with very good manners.

Q: Did you receive a letter addressed to you that was postmarked October 11, 2012, from Memphis, Tennessee?

A: Yes, I did. It was from Elvis Presley.

Q: Handing you plaintiff's exhibit one, is this Elvis' signature?

A: Yes it is.

PLAINTIFF'S ATTORNEY: We offer this letter into evidence.

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Dearest Verena:

I hope you're sitting down when you read this, because what I'm going to tell you may come as a shock. I'm not dead like everybody thinks. I'm alive and doing just great.

I'm sorry I didn't write you sooner. I know you must have been upset to hear the papers report that I was dead. But I had to start a new life. I was killing myself with drugs and booze, and getting fat, and just wasn't happy any more. I used to look in the mirror and say, "Elvis, the magic's gone."

You always were like a second mama to me. I will always remember your great sandwiches. I wish I could get to Germany to see you. But I wanted you to know firsthand that I was really alive. Take care.

Love,

Elvis

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DEFENSE ATTORNEY: This is ridiculous, your honor. We object to the admission of this letter on the ground that it has not been sufficiently authenticated.

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3. What response(s) can plaintiff's attorney make to this objection?

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COURT: Overruled.

DEFENSE ATTORNEY: In that case, we object to the letter as hearsay.

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4. What response(s) can plaintiff's attorney make to this objection?

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COURT: Overruled (not necessarily the correct ruling).

PLAINTIFF'S ATTORNEY: No further questions. We call Peter Richter.

BAILIFF: Do you swear to tell the truth?

WITNESS: I do.

BAILIFF: State your name and address.

WITNESS: Peter Richter, 3412 Mulholland Drive, Los Angeles.

Q: What is your occupation.

A: I am a freelance journalist who specializes in Elvis Presley. I have read every book written about him. I have one of the largest collections of Elvis memorabilia in the United States. Since his alleged death in 1977, I have investigated and written about reports that he is still alive. For over ten years, this has been my full-time occupation, and I have had over 200 of my articles published. I have talked to everyone I can locate who thinks they have seen or heard from Elvis since his death. Let me tell you, I have talked to a number of real fruitcakes out there, who think Elvis spoke to them from cereal boxes, or they met him when they were taken aboard a UFO, and so forth. It is often hard to distinguish the crazy people from those who really have seen or communicated with Elvis Presley. I guess you could say I am an Elvisologist.

Q: Handing you plaintiff's exhibit one, the letter allegedly from Elvis, in your opinion as an expert on Elvis Presley, do you think it is genuine?

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5. What objection(s) could the defense make?

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COURT: Overruled. (not necessarily the correct ruling).

A: I believe it is genuine.

PLAINTIFF'S ATTORNEY: No further questions.

DEFENSE ATTORNEY: Mr. Richter, this Deuble woman is not the first to come forward with a letter allegedly written by a living Elvis, is she?

A: No.

Q: In fact, you have seen a number of such letters and investigated their authenticity, haven't you?

A: Yes. I have investigated about 25 such claims. In most cases, the letters turn out to be forgeries.

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6. What objection(s) can the plaintiff's attorney make?

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COURT: Overruled (not necessarily the correct ruling).

A: Yes.

Q: Mr. Richter, how did you find out about this particular letter?

A: I read about it in a German newspaper.

Q: Did you visit Verena Deuble?

A: Yes. She gave me the letter, and asked for my help in convincing the world that it was genuine.

Q: Supermarket tabloids will buy stories suggesting that Elvis is still alive, won't they?

A: Yes.

Q: Will they buy stories that Elvis is still dead?

A: No.

Q: In the case of the Deuble letter, didn't you sell a story to the Weekly World News for \$5,000, in which you suggested the letter was genuine?

PLAINTIFF'S ATTORNEY: I object. This is confusing the issues and a waste of time.

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7. What response(s) can the defense attorney make to this objection?

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COURT: Overruled (not necessarily the correct ruling).

A: Yes I did.

DEFENSE ATTORNEY: No further questions.

PLAINTIFF'S ATTORNEY: We call Priscilla Presley.

BAILIFF: Do you swear to tell the truth?

WITNESS: I do.

Q: Are you Priscilla Presley, the actress and former wife of Elvis Presley?

A: Yes.

Q: Were you married to him in 1977 when he allegedly died?

A: No; we were divorced.

Q: Since 1977, have you received any letters or telephone calls from Elvis?

A: On the advice of my attorney and my theatrical agent, I am not going to answer that question. I think this whole proceeding is a farce and a sick attempt to capitalize on Elvis' memory. If I were to testify that I had been receiving communications from beyond the grave, my career would be ruined.

Q: Handing you plaintiff's exhibit two, is this a statement that you prepared for me at my request, on September 12, 2013, in which I asked you about communications you received from Elvis?

A: Yes.

PLAINTIFF'S ATTORNEY: We offer exhibit two into evidence as the prior inconsistent statement of this witness.

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8. What objection(s) could the defense attorney make?

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COURT: Overruled (not necessarily the correct ruling).

PLAINTIFF: Nothing further

DEFENSE ATTORNEY: You were originally named a co-defendant, weren't you?

A: Yes.

Q: And did you settle out of court with Ms. Thompson?

PLAINTIFF: Objection under Rule 408, which prohibits evidence of offers to settle.

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9. What response can the defense attorney make?

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COURT: Sustained.

DEFENSE ATTORNEY: No further questions.

PLAINTIFF'S ATTORNEY: We call Martha Camacho.

BAILIFF: Do you swear to tell the truth?

WITNESS: I do.

Q: State your name and address.

A: Martha Camacho. 455 Tulip Lane, Memphis.

Q: Are you the trust officer at the First Memphis Bank who supervises that Presley trust?

A: Yes. That has been my responsibility for ten years. Before that, I was a trust attorney for the bank.

Q: Have you been continuously in charge of that account since Elvis Presley was reported to have died?

Defense attorney: I object. Reports of Elvis' death would be hearsay.

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10. What response(s) can plaintiff make?

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COURT: Overruled (not necessarily the correct ruling).

A: Yes.

Q: Under the terms of the trust agreement, when does Lisa-Marie Presley receive the bulk of the estate of Elvis Presley?

A: I do not know.

Q: Under the terms of the trust agreement, must Elvis be dead for the money to pass to Lisa-Marie?

A: I do not know.

Q: You are the trust officer of the bank, aren't you?

A: Yes.

Q: Do you know anything about the terms of the Presley trust?

A: Not off the top of my head. The bank is trustee for over 1,000 trusts. There are a dozen forms filled out for every one of those trusts. We employ a staff of four whose only job is to fill out more documents for every transaction involving any of these 1000 trusts. In total, that's over

20,000 documents relating to trusts. I cannot be expected to recall the contents of each one.

Q: Did you happen to bring the records of the Presley trust with you today?

A: Yes. They amount to 44 pages.

PLAINTIFF'S ATTORNEY: We move into evidence the records of the Presley trust, as plaintiff's exhibit 3.

DEFENSE ATTORNEY: I object. The records are hearsay.

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11. What response(s) can plaintiff's attorney make to this objection?

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COURT: Overruled (not necessarily the correct ruling). Court is in recess.