

LAW SOCIETY OF BRITISH COLUMBIA
SAMPLE QUALIFICATION EXAMINATION
BARRISTER

NOTE

1. This sample examination represents approximately one-half of a typical 100-mark, three-hour Qualification Examination. It is marked out of 50 and could be completed in 1 1/2 hours. The regular exams are printed on one side of a page only. In the regular exams, each of the three sections is worth 30 marks. One section (Practice Management) is worth 10 marks.
2. The questions and answers are based on the law as of January 2021.
3. This sample examination may be circulated. All other Qualification Examinations are confidential and can only be reviewed at PLTC by students who fail their examination.

INSTRUCTIONS

1. You have **1 1/2 hours** to complete this examination.
2. The Barrister Exam identifies whether questions are Practice Management (5 marks), Civil (15 marks), Criminal (15 marks), or Family (15 marks) within the question stem. Ethics questions are not identified separately—these questions are spread throughout the examination.
3. The following instructions apply to the different types of questions you will answer.

(a) **Multiple Choice**

You are to choose the best answer, even where a technical argument exists for the correctness of other answers.

Hard copy: Circle the letter for only one answer statement.

ExamSoft: Select the letter for only one answer statement.

(b) **Short Answer**

The number of marks allocated is a good guide to the amount of time and space you should allocate to a question. Point form answers are acceptable if they communicate the answer clearly.

Hard copy: Answer in the lined space provided. You can continue an answer in the blank space below the lines if necessary.

ExamSoft:

- Character limits have been set in the answer box to allow ample space for your answers. Do not feel obligated to reach the maximum.
 - Some short answer questions include multiple sub-questions, e.g. (a), (b), (c). Clearly indicate in the answer box which sub-question you are answering when writing your answers to these questions.
- 4.** When a question is marked, markers look at the whole answer. For instance, if you give the correct information in one part of the answer, but contradict yourself in another part of the answer, then you cannot get full marks and may get no marks. PLTC does not use negative marking (you will not receive less than zero on any given question). When a question says “Marks will be deducted for additional incorrect answers”, that means that if you give more answers than are called for in a question, and some of them are incorrect, marks may be deducted from the correct answers, but you will not receive less than zero.

Question 1**Practice Management** (3 marks)

Baker & Mah is a two-lawyer firm in Vancouver, BC. Last Wednesday, the firm's only employee, a legal assistant, noticed an entry in the bring-forward system for a personal injury file. The entry indicated that it was two years, less a day, from the date of the motor vehicle accident. Unfortunately, Lawyer Baker was away on holidays and Lawyer Mah was out of town in trial. Despite valiant efforts, the secretary was unable to reach either lawyer. She brought the matter to their attention this morning.

(a) What **four** things should Baker and Mah do now? (2 marks)

(b) How can they avoid this problem in the future? (1 mark)

Question 2**Practice Management** (2 marks)

Gwen is employed as a legal assistant by Lawyer Max Hunter. Max is a sole practitioner specializing in litigation. He is often out of the office in court. Max has authorized Gwen to sign all routine outgoing mail with her usual signature, followed by her typed name and "Max Hunter and Co." She is not to give any "legal advice".

Advise Max of **two** reasons why this policy may be a problem.

Question 3**Civil (2 marks)**

Three days ago, lawyer Arman filed and served a notice of civil claim setting out a concise statement of the material facts and the relief required in the action. Yesterday, he sent a registered letter to the defendant, a BC business owner, stating “Please file your response to civil claim in compliance with the Rules.” The defendant is now deciding about the wisdom and timing of filing a response. Which of the following is most accurate?

- A. The defendant must file a demand for particulars within 14 days of being served.
- B. The defendant must apply to the court without delay for an extension of time to file a response.
- C. The plaintiff’s lawyer must serve a list of documents before a response is required.
- D. The plaintiff’s lawyer may take default judgment 21 days after service of the notice of civil claim if no response is filed.

Question 4**Civil (2 marks)**

When suing a former client in Small Claims Court for unpaid legal fees, which method of serving the notice of claim requires the Registrar’s permission:

- A. If the client is an adult, service by registered mail to the client’s spouse.
- B. If the client is a BC company, service by leaving a copy with a director of the company.
- C. If the client is an adult, service by registered mail to the client.
- D. If the client is 18 years old, service by leaving a copy with the client’s mother.

Question 5

Civil (2 marks)

In a BC Supreme Court Chambers application, an Affidavit contains the following paragraph:

“I am informed by Mr. Patel that Ms. Reddy told him that the courier delivery on April 30th, YR–1 was two hours late.”

Discuss the use of this paragraph to prove the truth of the late delivery.

Question 6

Civil (2 marks)

Jojo was driving his car on a street in Richmond, BC. He collided head-on with a car owned and operated by Carl, a visitor from Seattle. Jojo suffered serious injuries. Carl returned to Seattle two weeks later. Jojo has Carl’s address in Seattle.

Jojo retains a lawyer to sue Carl in BC Supreme Court. How must the lawyer proceed to ensure Carl is validly served in Seattle? **Explain.**

Question 7**Civil** (3 marks)

A civil action has settled before the trial date is set. The terms of settlement have been confirmed by exchange of lawyers' letters.

- (a) What **two** further steps does a defendant's lawyer customarily take to protect the defendant's interest? (1 mark)

- (b) The settlement included a term that the defendant would "pay the plaintiff's costs and disbursements". From past experience with the defendant's lawyer, the plaintiff's lawyer expects a dispute over these. What step(s) should the plaintiff's lawyer take to finalize the amount of the costs and disbursements? (2 marks)

Question 8**Civil (2 marks)**

Charlotte borrowed \$5,000 from Alyson on May 30, YR-4 at 5% simple interest. Charlotte agreed to make monthly payments of \$100 beginning on June 30, YR-4. Charlotte stopped paying on June 30, YR-2. Last year in YR-1 on June 30, Charlotte sent Alyson a note promising that she will resume making payments when she is able. Today is September 12, YR 0. Alyson is tired of waiting and wants her money. Advise Alyson.

Question 9**Civil (2 marks)**

Maria has received a judgment from the Supreme Court of British Columbia for \$183,000 against a debtor. She wants to collect by registering her judgment against the debtor's condo and forcing the sale.

(a) How should Maria bring her application for sale? (1 mark)

(b) What should Maria consider before applying to sell the condo? (1 mark)

Question 10**Criminal** (2 marks)

Andrea, the accused in a criminal trial, tells her lawyer Ethan a version of the events of the case that is different than that of Bill, a witness for the prosecution. Ethan intends to call Andrea to tell her version of events. In order to argue later about Bill's lack of credibility, Ethan must:

- A. find a contrary statement in the transcript of the preliminary inquiry and use it to impeach Bill;
- B. ask the judge to declare Bill a hostile witness, so that he can be cross-examined;
- C. put the defence's version of the disputed facts to Bill in cross-examination;
- D. seek a voir dire to determine whether the rule in Hodge's Case applies.

Question 11**Criminal** (4 marks)

You are defence counsel. One week before trial you notice that the Information is seriously defective. On your advice, your client pleaded not guilty on his last appearance.

(a) What step(s) can you now take? **Explain.** (3 marks)

(b) What is the likely outcome of your intended course of action? (1 mark)

Question 12**Criminal** (2 marks)

Penelope has been retained by the accused to represent him only for the preliminary hearing but not the trial. Is Penelope required to advise the court about her retainer?

Explain.

Question 13**Criminal** (3 marks)

You act for a client who has been charged with falsifying an employment record. Following the close of evidence, Crown counsel makes submissions on the law regarding the onus on the Crown to establish an intent to deceive. Crown counsel fails to mention a recent decision of the BC Court of Appeal which is relevant to the issue and clearly adverse to your client's position. **Explain** your obligation(s), if any, to inform (a) Crown counsel and (b) the judge of this decision.

Question 14

Criminal (4 marks)

While on a visit to Vancouver, Brogan, a resident of Cardiff, Wales is arrested, detained and charged with the indictable offence of sexual assault with a weapon.

Explain what Brogan must do at the bail hearing in order to be released.

Question 15**Family** (3 marks)

Ezra and Mei began living together in November YR–4. They never married. Their son, Hiro, was born in December YR–3. They separated permanently on August 15, YR–2. Hiro continued to live with Mei. Ezra is working full time and earns considerably more than Mei. Advise Mei about her entitlement, if any, to support from Ezra for herself and Hiro, and any applicable time limits.

Question 16**Family** (3 marks)

James and Melissa Mendoza separated four years ago. They have settled their financial affairs and are satisfied with the arrangements. They have continued to live close to one another so that the children can spend equal time with each of them. They have agreed that neither of them needs to receive child support.

James plans to remarry and now wants a divorce from Melissa. James discussed this with Melissa who has no reason to oppose a divorce or to revisit their settlement. She will not defend the divorce proceedings. James would like the divorce to proceed quickly without any complications. He has retained you to assist him. Advise James whether there is anything that could delay the divorce.

Question 17**Family (4 marks)**

Kamala and Rob separated a week ago after ten years of marriage. They have not spoken since. The children are residing with Kamala. Kamala is not sure why Rob left. Kamala suspects that Rob is having an affair with a woman at his workplace. Kamala has heard from a friend that Rob is feeling miserable. Kamala wants to move swiftly and strongly to shock Rob into ending the affair and coming home.

Kamala has hired a lawyer, Abdul, to commence divorce and family proceedings immediately and bring on an application, without notice, for interim custody of the children. Discuss what Abdul must do before following any of his client's instructions.

Question 18**Family** (4 marks)

Sebastian has asked for your advice concerning his recent separation. He has not been employed outside the home since he began living with Julia almost ten years ago. Julia is a pharmaceutical sales representative. She overspends and gambles. Julia left their jointly owned home two months ago and is living with a colleague in a rented apartment. She has told Sebastian that she is not coming back.

Sebastian has almost depleted his savings and has no income. If he commences a family law proceeding, **state four interim measures** of relief, appropriate to the circumstances, which are available to him from the court. **Explain.**

Question 19**Family (1 mark)**

Thomas and Charlize are married. Thomas wants to divorce Charlize. Charlize agrees with Thomas to give evidence that he engaged in adulterous conduct, even though he hasn't committed adultery. If the court learns of this agreement will it grant the divorce?

Explain.

50 MARKS