

State of Franklin Dep't of Children and Families v. Little Tots Child Care Center (February 2019, MPT-1) In this performance test, examinees' law firm represents Ashley Baker, the owner and operator of the Little Tots Child Care Center. Upon its initial inspection of Little Tots, the Franklin Department of Children and Families (FDCF), the administrative agency charged with monitoring child care centers, found several violations that it deemed critical. After other violations were found on successive inspections, FDCF issued a Notice of Revocation of the license to operate Little Tots, which will take effect in seven days. Baker, who expanded the center's enrollment and obtained a government grant which allows her to offer reduced fees, wants to challenge the revocation. The supervising attorney has filed the complaint for preliminary and permanent relief. The task for examinees is to draft the argument section of the brief in support of the motion for a preliminary injunction to prevent the license revocation until a trial can be had on the merits. The File contains the instructional memorandum, the office guidelines for drafting persuasive briefs, a statement from Baker, the Notice of Revocation, the FDCF inspection reports, and an email from a parent in support of the center. The Library contains excerpts from the Franklin Child Care Center Act and FDCF regulations implementing the act, and one Franklin case discussing the requirements for a preliminary injunction.

In re Remick (February 2019, MPT-2) This performance test requires examinees to draft an objective memorandum analyzing whether the client, Andrew Remick, has a viable negligence claim against motorist Larry Dunbar under the alternatives set forth in sections 42 and 44 of the Restatement (Third) of Torts, often referred to as the "Good Samaritan" doctrine. Remick's car had stalled at dusk on a winding road when Dunbar, a former auto mechanic, offered assistance. While Dunbar was attempting to jump-start the car, another motorist drove around the bend and rear-ended the vehicle. Remick was in the backseat with a twisted ankle when the force of the collision threw him against the driver's seat, which resulted in multiple injuries, including a concussion and a broken arm. The primary inquiry is whether "Good Samaritan" Dunbar owed Remick an affirmative duty of care under the circumstances to protect Remick and his car from being hit by another motorist. The File contains the instructional memorandum, a transcript of the client interview, and a memorandum from the firm's private investigator. The Library contains excerpts from the Restatement (Third) of Torts and three Franklin cases.

American Electric v. Wuhan Precision Parts (July 2019, MPT-1) In this performance test, the client, Wuhan Precision Parts (WPP), is a Chinese corporation that manufactures gear motors for dishwashers. WPP wants to know its likelihood of success in vacating a default judgment entered against it by the United States District Court for the District of Franklin. The default judgment arises from an earlier arbitration between WPP and American Electric (AE). Although WPP agreed to arbitrate its contract dispute with AE in Franklin, it now seeks to vacate the default judgment that (1) confirms the arbitration panel's award of damages to AE and (2) awards additional attorney's fees to AE related to the federal court proceeding. WPP's hopes turn on the effect, if any, of improper service under the Hague Convention and the Federal Rules of Civil Procedure when the resulting default judgment arises from an arbitration proceeding and award. The File contains the instructional memorandum, an email from a WPP executive, and the court order entering the default judgment. The Library contains excerpts from Rules 4 and 5 of the Federal Rules of Civil Procedure and cases from two neighboring jurisdictions, Olympia and Columbia, which discuss alternative approaches to deciding when strict compliance with the Hague Convention Rules of Service will be excused by the courts.

Estate of Carl Rucker (July 2019, MPT-2) This performance test requires examinees to evaluate two estate planning approaches that the client, Carl Rucker, could take regarding his main asset—his house. Rucker's dilemma is that while he is certain that he wants his wife, Sara, to be able to continue living in the house after his death, she does not get along with his two sons from his first marriage, and Rucker wants his sons to eventually inherit the house. In addition to identifying the advantages and disadvantages of the two possible approaches (a life estate or a contract to make a will (or not to revoke a will)), examinees are to make a recommendation about which approach will better serve Rucker's goals—to ensure that the house ultimately belongs to his sons and to minimize the risk of litigation over the estate. The File contains the instructional memorandum, a transcript of the client interview, and an appraisal for the house. The Library contains excerpts from *Walker's Treatise on Life Estates* and two cases from the Franklin Court of Appeal: *In re Estate of Lindsay*, addressing the impact of a life estate on the calculation of a spouse's elective share, and *Manford v. French*, discussing the requirements for creating a valid contract to make a will (or not to revoke a will).