



Multistate Performance Test

## February 2024 MPT Summaries

***State of Franklin v. Iris Logan (February 2024, MPT-1)*** In this performance test, the examinee is asked to draft an objective memorandum assessing whether the Hamilton County district attorney should pursue robbery and felony-murder charges against defendant Iris Logan. According to the testimony at the preliminary hearing, Logan snatched a woman's purse and then left the scene in a vehicle driven by her accomplice, Jeremy Stewart. A short time later, Stewart was killed when their vehicle was hit by an SUV in an intersection. The traffic lights at the intersection were malfunctioning at the time of the crash, and Logan was arrested at the accident site. The examinee's evaluation of the case against Logan should reflect the office policy of not over-charging in cases where the evidence is weak. The File contains the task memorandum, the "be on the lookout" notification, excerpts from the preliminary hearing transcript, and a maintenance report from the highway safety department. The Library contains selected provisions from the Franklin Criminal Code and three Franklin cases: *State v. Driscoll* (setting forth the elements of robbery), *State v. Clark* (discussing when a crime is completed), and *State v. Finch* (discussing the felony-murder rule).

***Randall v. Bristol County (February 2024, MPT-2)*** This performance test requires the examinee to write a persuasive argument in support of a motion for summary judgment. The client, Olivia Randall, has brought a free-speech claim under 42 U.S.C. § 1983 against her employer, Bristol County. The county suspended Randall for 14 days without pay after she made two public posts on Facebook in which she criticized the county's decision not to seek renewal of a state grant. Randall administers a workforce-development program funded by the grant. She has already served the suspension; the purpose of the lawsuit is to restore her pay, expunge the discipline from her employment record, repair her reputation, and deter the county from future retaliatory actions. The File contains the task memorandum, the firm's guidelines for persuasive briefs, the letter of suspension from the county personnel office, a letter from the county attorney, Randall's Facebook posts, and excerpts from the depositions of the county executive and of Randall. The Library consists of two public-employee First Amendment cases from the Fifteenth Circuit of the US Court of Appeals.

***In re Girard (July 2024, MPT-1)*** This performance test involves a landlord-tenant dispute. The client, Laurel Girard, has received a “Three-Day Notice to Cure or Quit” from her landlord, Hamilton Place LLC, alleging that she has violated two provisions in the residential lease: (i) the lease payment provision and (ii) the no-pet provision. The Notice gives Girard three days to either “cure” the alleged lease violations or “quit” (vacate) the premises. Hamilton Place is threatening to file an action seeking a court order terminating the lease and evicting Girard if she remains in the apartment and does not cure the alleged violations within the allotted time frame. The examinee’s task is to draft an objective memorandum analyzing the validity of the two alleged violations contained in the Notice and recommending what actions, if any, the firm should advise Girard to take. The File contains the task memorandum, a memorandum summarizing the client interview, excerpts from the Residential Lease Agreement, a letter from Hamilton Place notifying Girard of a \$150 rent increase, the Notice to Cure or Quit, and a letter from Girard’s therapist documenting her disability and the need for an emotional support animal, in this case, a cat. The Library contains excerpts from the Franklin Tenant Protection Act and the Franklin Fair Housing Act, as well as an appellate court opinion, *Westfield Apts. LLC v. Delgado* (Fr. Ct. App. 2021).

***CDI Inc. v. Sidecar Design LLC (July 2024, MPT-2)*** This performance test requires the examinee to assess a client’s potential liability under a federal statute, the Computer Fraud and Abuse Act (CFAA), 18 U.S.C. § 1030. The client, Sidecar Design LLC, is a website design and programming business. Sidecar agreed to create a website and a web-based payment system for Conference Display Innovations Inc. (CDI). While Sidecar worked on the website and payment system and for one week after it completed work on the project, Sidecar’s system password gave it full access (“technical access”) to CDI customer data, including billing information. One of Sidecar’s employees, John Smith, used that technical access to take money from a CDI customer on two occasions. CDI sent Sidecar a demand letter alleging that those transfers violated the CFAA and seeking damages in four categories: the costs of investigation and repair, restitution of funds improperly billed to the customer, loss of business resulting from the breach, and punitive damages. The examinee’s task is to prepare a memorandum analyzing Sidecar’s liability under the CFAA and the categories of damages that CDI can recover under the Act. The File includes the task memorandum, a summary of an interview with Sidecar’s manager, a chronology of the key events, and the demand letter from CDI’s counsel. The Library includes relevant sections of the CFAA and two cases, *HomeFresh LLC v. Amity Supply Inc.* (D. Frank. 2022) (discussing the meaning of “exceeds authorized access” under the CFAA) and *Slalom Supply v. Bonilla* (15th Cir. 2023) (explaining what damages are available under the CFAA).