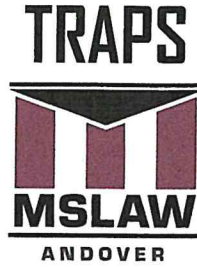


RST
EAM



Avoiding Traps for New Lawyers FINAL EXAM

QUESTION ONE (Put essay in the bluebook.)

A prospective client, Paula, walks into your office with a handful of problems, stating that her new lawyer must be able to quickly handle these matters because her "old attorney was a liar." Paula states that she is rightly entitled to, but is not receiving, potential trust monies, as the trustee has a personal vendetta against her. She claims her previous attorney mishandled the first attempt to shake loose the trust funds, and that attorney's compensation was contingent upon securing the proceeds of the trust. She tells you not to worry because she will instead pay you based on the fruits of her wrongful termination case where her former employer agreed to pay her in installments as part of a settlement but has not made all of this year's scheduled payments.

Paula goes on to explain that her previous employer failed to live up to the terms of the settlement and executed release it had agreed to when she departed for a competing company. As part of this release, Paula waived any employment discrimination or wrongful termination claims, and in return, her employer agreed to pay her in four installments over the course of 2 years. The release did not include a clause preventing Paula from asserting "existing and unknown claims" in its waiver language.

Last week a former co-worker forwarded her an email, dated during the time of her employment, purportedly sent from the CFO to one of the directors of the Board. Paula states she does not know and did not ask how the former co-worker ended up in possession of the email. The contents of the email were derogatory and sexually explicit in nature, and declared Paula's chances of ascending at the company as "worse than a snowball's chance in hell" based on her "bitchy attitude."

When Paula told the CEO that she had this information in her possession, the company immediately stopped paying the installments stipulated in the release. She now wishes to bring suit for what she is owed, as well as any claims she has relevant to the newly discovered emails.

She also wants you to resolve the trust disbursements in her favor, file a malpractice claim against her previous attorney and "fix his ass" with the BBO.

Paula said she would prefer to pay you in cash if you would give her a bit of a discount.

Discuss the issues presented.

SHORT ANSWERS (Answer in the space provided.)

1. Are there questions you would ask Paula to better understand her problems? How would you determine whether her claims have merit, or whether a client is overly-litigious?

2. What red flags stand out during the intake of a prospective client like the one described in Question One? What types of options do you have at your disposal in dealing with a client like that?

3. Another longstanding client consults you regarding her will. You have no experience, outside of law school, with wills and trusts. What should you do?

4. What are statutes of limitation and what are the statutes of limitation in Massachusetts that you are aware of?

5. Discuss discovery, spoliation issues, and describe the various methods of discovery.

6. This law requires businesses (law firms included) to provide formal notification of any data security breach involving a client or customer's Personally Identifiable Information:

Personally Identifiable Information encompasses an individual's _____, _____, _____, or _____ / _____ number.

7. Complaints for divorce are filed _____
_____. The complaint for divorce should include a
_____ for a division of _____
_____ in order to provide the other party with sufficient notice. Failure
to do so could result in the need to file a _____
after the entry of divorce.

8. Insurance carriers have an obligation _____
In hit-and-run accidents, the standard motor vehicle insurance policy requires
_____ to give _____ to both police and his/her insurance carrier
within _____ or the injured party's claims for _____ will be
barred. If notice is late, insurer can _____ and does not need
to show _____.

9. The standard for Summary Judgment is that _____

_____ and the _____ is entitled to _____
_____. Summary judgment may be entered for a
defendant in a negligent distribution of alcohol to a minor case if the plaintiff fails
to file a _____ within _____ of filing the
_____.

10. Courts may decline to hear a motion for a variety of reasons. Often times,
they refuse to hear a motion unless the facts supporting the motion are verified
by an _____. These should be served with the _____, and
should be served within _____.