

**MASSACHUSETTS SCHOOL OF LAW
MOTIONS & LITIGATION PRACTICE**

Professor Olson – Final Exam
August 1, 2005

1. Superior Court Rule 9C applies to what kind of disputes? (5 points)
2. Answer the following about admissions (Mass. R. Civ. P. 36): How does the party to whom the admission is directed prevent "the matter from being admitted?" (5 points)
3. What documents are necessary to file to commence a Superior Court civil action? Describe the contents of the documents. (5 points)
4. According to Rule 8 of the Mass. Rules of Civil Procedure, list all the possible ways to answer the averments upon which the adverse party relies. (5 points)
5. What's the effect of a nolle prosequi without a defendant's consent after the attachment of jeopardy? (5 points)
6. How long can the Commonwealth keep a person in custody following an arrest? (5 points)
7. What documents must the parties prepare for the pretrial conference, and what happens if the parties don't appear at the pretrial hearing? (5 points)
8. If a criminal proceeding is commenced in District Court by complaint and Superior Court by indictment, can a defendant ever be proceeded against by complaint in Superior Court? When? (5 points)
9. If a prosecutor wants to file an interlocutory appeal of a trial judge's granting of a motion to suppress, why must he look to the "Standing Orders" of the S.J.C.? What do they say? (5 points)

10. Does jeopardy attach at a probable cause hearing? If the court at arraignment doesn't schedule a probable cause hearing, what will the court order? (5 points)
11. List four (4) reasons or circumstances pursuant to Mass. R. Civ. P. 32 that a party may use a deposition at a trial. (5 points)
12. State the following regarding interrogatories (5 points):
 - (A) What Massachusetts Rule of Civil Procedure governs interrogatories to parties?
 - (B) When can interrogatories be served on another party without leave of court?
 - (C) How many sets of interrogatories can be served on the other party?
 - (D) Who signs the answers to interrogatories?
13. What materials can be used to support a motion for summary judgment? Name five (5). (5 points)
14. Name four (4) documents that are necessary to be part of a discovery motion (Motion to Compel). (5 points)
15. Under what circumstances is a party required to supplement his response to a request for discovery (Rule 26(e))? (5 points)

Fact Pattern

On July 15, 2003, Dan Gibson was a patron at the Starry Eyed Bar & Grill. He spend approximately two hours at the B&G and consumed a number of alcoholic beverages. He got bored and decided to leave. Dan arrived at the High Tide Lounge a short time later. While at the High Tide, Dan continued to drink to excess. The bartender at the High Tide noticed that Dan appeared intoxicated and refused to serve any more drinks to him. Dan was quite angry and stormed out. He then arrived at the Bullfinch Pub and continued drinking until around 1:00 a.m. As he stumbled out of the Bullfinch, a car driven by Imelda Shoetree sped by and struck Dan. He was immediately rushed to the hospital where it was determined that he has sustained a

number of injuries including a fractured femur. Dan's wife, Ann Gibson, drove him home where he began a very long recovery period.

Questions

(5 points each)

1. Dan Gibson now comes to you and asks you to represent him.
 - (A) Would you? Why or why not?
 - (B) How would Mass. R. Civ. P. 11 influence your decision?
 - (C) What additional information would you require?
2. Assume for this question **only** that you have decided to represent Dan.
 - (A) Whom would you sue?
 - (B) Would you be concerned about any potential motions to dismiss? Explain.
3. If you're representing Dan and the attorney for the High Tide Lounge refuses to provide you with a copy of his client's liquor license, which you asked for in your discovery request, what would you do and how would you do it? What rule supports your position?
4. If you are representing Dan and the attorney for the High Tide Lounge is seeking all documents relating to your client's hospitalization for drug and alcohol abuse, what would you do and how would you do it? What rule supports your position?
5. If this case was brought in Superior Court and your opponent files a discovery motion with the court, is this proper? On what rule and/or standing order do you base your answer? How should the motion have been filed?