CO 7/2025 MEE 1 - Selected Answer 1

******* MEE 1 STARTS HERE *******

1. Whose preference will prevail.

The issue is whether Lin's preference to not expand the business will prevail or Bo's preference to expand the business will prevail.

The respective weight of each LLC member's preference can be altered from the default rules in the LLC's operating agreement. Here, Bo and Lin did not enter into an operating agreement and thus the default rules for LLCs imposed by RULLCA apply.

Generally, where an LLC does not specify, it is deemed member-managed. Here, there was no LLC operating agreement to say otherwise, so it is member-managed. In a member-managed LLC, members can take actions in the ordinary course of business without the consent of all members. However, actions taken outside the ordinary course of business require the unanimous consent of all members.

Here, Bo is seeking to expand the business beyond soap, which constitutes an action outside the LLC's ordinary course of business. Thus, Lin must agree for Bo's preference to prevail. Because Lin does not agree, Bo's preference will not prevail.

Therefore, Lin's preference not to expand the business into other products will prevail.

2. Asset distribution.

The issue is how the LLC's assets would be distributed between Lin and Bo if the parties agree to dissolve the LLC.

Generally, upon dissolution of an LLC, asset distribution follows a certain hierarchy. First, any debts owed by the LLC will be paid off. Second, each member's capital contribution will be repaid. Finally, the remaining assets will be split among the members in accordance with their ownership proportion.

Here, the LLC does not have any debts, so the first step does not apply.

With regard to each member's capital contribution, Bo has contributed a total of $17,000. This number comes from 50% of the initial value of the soap formula, which was owned equally by Lin and Bo, and totals $10,000. In addition, Bo contributed $5,000 initially and later $2,000. This totals $17,000. As for Lin, Lin is entitled to be repaid $10,000 for her share of the initial contribution of the soap formula's value.

The LLC's assets total $46,000, with $40,000 coming from the value of the soap formula, $5,000 in cash, and $1,000 in supplies. Because Bo will receive $17,000 and Lin $10,000 in repayment for their initial contribution, $19,000 will remain. This $19,000 will be split equally between Bo and Lin because each have an equal ownership proportion in the LLC. Thus, each will receive an additional $9,500.

Therefore, Bo will receive a total of $26,500 and Lin will receive a total of $19,500.

3. Likelihood of dissolution.

The issue is whether a court is likely to order a judicial dissolution if the parties do not agree to dissolve the LLC and one party seeks a judicial resolution.

In an LLC like the one Lin and Bo belong to, there is potential for deadlock, which occurs when there is an even number of members and they are split on what course of action to take. For

example, deadlock can occur on issues such as whether to dissolve the LLC. Generally, an LLC's operating agreement can outline the proper course of action in case of deadlock. Here, there is no applicable course of action because the LLC does not have an operating agreement.

In the case of unresolved deadlock, LLC members can petition the court for a judicial dissolution. Here, because Bo and Lin have not agreed to dissolve the LLC, they can petition the court for a judicial dissolution.

The court will grant a judicial dissolution where it is in the LLC's best interest. Here, because Bo and Lin are the sole members, any disagreement between them will likely prevent the LLC from accomplishing its purpose. Thus, it would be proper for a court to grant a judicial dissolution.

Therefore, it is likely that a court would grant a dissolution.

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CO 7/2025 MEE 1 - Selected Answer 2

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Whose preferences will prevail?
The first issue is to analyze whose preferences will prevail between Lin and Bo's ideas on the direction of the business. To determine this, the type of LLC must be ascertained. An LLC is assumed to be member managed unless it is stated otherwise in the LLC filing creating the LLC. In the instant case, the fact pattern indicates that Lin and Bo formed the LLC without a written agreement for management of the LLC or altering any of the default rules. Thus, Lin and Bo are in a member managed LLC. In addition, unless otherwise stated in an operating agreement, each member of an LLC is assumed to be an equal member with equal decision making. As stated above, Lin and Bo did not alter the default rules of the LLC, thus they would each have equal decision making power. In addition, members in a member managed LLC are allowed to transact business in the regular course of the LLCs business. Acting outside the regular scope of business requires the approval of all members. Here, Lin and Bo are in a disagreement as to how to proceed. Bo wants to expand the business into other lies of products besides the original soap idea, while Lin does not. Adding addition products to the product line would be acting outside of the LLC's normal course of business and would thus require approval for all members. Here, Lin does not want to change the regular course of business and has withheld his approval. Thus, given that expanding into new product lines would be acting outside of the regular course of business, Lin's preference would prevail.

The next issue to analyze is how would the LLC distribute its assets between Lin and Bo should the LLC dissolve. In the absence of an operating agreement stating otherwise, winding up an LLC requires that debtors be paid first, the members individual contributions to the business be paid out second and any profits left be split equally among the members. Here, the LLC has 5000 in cash, 1,000 in supplies an the soap formula worth 40,000. Thus the LLC has assets with 46,000 Here, the fact pattern indicates that the LLC has not debt, thus, there would be no creditors to pay. he fact pattern further indicates that together Bo and Lin contributed the soap formula worth 20,000. which would equate to 10,000 from each of the members. Bo's initial contributes were 17,000, consisting of his cash contributions and his half of the soap formula so he would be given this amount back 17,000 for the total assets of the LLC. Lin's initial contribution consisted of his half of the soap formula which was worth 10,000 and would thus be entitled to this amount, the remaining funds from the LLC, 19,000, would be split evenly among Bo and Lin, which equates to 8500 each. Thus, Lin would receive 18,500 and and Bo would receive 25500.

the last issue to analyze is if the parties doe no agree to dissolve the LLC and one party seeks dissolution, is the court likely to order a dissolution. If an LLC consists of more than one member, a majority of the remaining members can vote to continue to operate the LLC and not dissolve the LLC, but would have to buy out the departing member for his share of the business. Here, there are two members of the LLC. If one were ask to dissolve, but one seeks to continue to operate, a court is likely to rule that the LLC would can continue to operate, but that the LLC must buy out the departing member for his share of the business and reimburse the departing member for his initial contributions.

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CO 7/2025 MEE 2 - Selected Answer 1

******* MEE 2 STARTS HERE *******

What Law Applies, and Merchant Status
Contracts for the sale of goods will be subject to the provisions in Art. 2 of the UCC, whereas contracts for services and real estate are subject to the common law. Here, the contract is subject to the common law, because the contract is or clearing snow.

Further, because the common law applies, the parties status of merchant is irrelevant, because the parties will be subject to the common law regardless of status.

Exchange of Emails and Contractual Formation
The issue is whether Debbie and Pete's exchange of emails constituted a valid contract formation.

To form a contract, there must be (1) an offer; (2) consideration, and (3) acceptance of the offer.

The offer is an objective manifestation by the offeror (the offering party) to deal with the offeree (recipient of the offer). The offeror must purposefully direct its offer at the receiving party, and subsequently objectively manifest their willingness to be deal with the offeree. An offer requires (1) the price of the offer; (2) the parties involved; (3) the subject matter of the offer; and (4) the quantity (if applicable) of the offer. An invitation to deal occurs when all terms are not met and the offeror instead manifests a willingness to deal with the offeree, but does not indicate that they wish to be bound.

Consideration is legally bargained for exchange, where the party either incurs a legal detriment, withholds a legal benefit, makes a promise to do something, or otherwise promises to withhold doing something. A court will not look to the adequacy of consideration, just that it exists.

Acceptance is the offeree's objective manifestation of willingness to be bound by the terms of the offeror. This means that the offeree must be ready and willing to perform due to the offer. Under the common law, the offer and acceptance must match each other *identically*, referred to as the "mirror image rule." If they do not, it will be treated as a rejection by the offeree and subsequent counter-offer to the offeror. A party may accept an offer through a return promise or beginning performance with notification.

Here, Debbie, the offeror, contacted Pete, the offeree. She made an objective manifestation of a willingness to be bound when she said "can you clear the snow from my driveway." However, she did not include all material terms, and instead, likely made an invitation to deal. This is because of her final question "what would you charge?" This shows that she would only manifest acceptance upon the price being right.

Peter responded that he would accept $300, this is the initial offer since Debbies terms indicated that the offer beforehand was already present. Debby rejected the offer, and counter-offered $500 because time was of the essence. Pete did not accept the offer initially, and instead attempted to accept through performance at 4 pm. Pete did not manifest a willingness to be bound by the terms of the offer, because his statement of "I will do my best" does not objectively constitute an objective manifestation of a willingness to be bound. While the offer remained open, the email exchange was insufficient to constitute an acceptance, and a contract was not formed.

Pete's Acceptance
The issue is whether when Pete attempted to verbally accept the offer, if it constituted a contract.

An offeror may revoke their offer at any time, if they are not a merchant providing a firm offer, or otherwise pay consideration to hold the offer open in the form of an option contract. The terms of the offer remain open for a reasonable time, in a bilateral contract. However, under the reasonable discovery doctrine if an offeree reasonably finds out that the offeror had not complied with the terms of the offer, and that the performance was not possible, the offeree will be

considered constructively on notice of the rejection. Since they have received notice of the rejection, they may not then subsequently accept any offer. This is true even if the party did not receive the rejection from the offeror, themselves.

Here, Pete saw that the driveway had been cleared. This is clearly inconsistent with the terms of the offer, and Pete thus was on notice that the offer had been revoked. Even though Pete stated "I accept your offer to clear your driveway, I'll get started right away." this is insufficient to constitute an acceptance. This is because Pete was already on notice of the revocation of the offer, and thus could not accept the offer.

Further, this is not an option contract, and Debbie is not a merchant. Pete did not pay consideration to hold the offer open. Debbie is entitled to revoke before Pete accepts.

Accordingly, Pete's statement of "I accept your offer" was insufficient as a matter of law to form the contract.

Assuming No Contract Formation, is Pete Entitled to Reliance
The issue is whether Pete is entitled to reliance damages.

Reliance damages occur when a party materially changes their circumstances based on the objective manifestation of another party. This is typically in response to a promise by the promisor, in which the following three elements are satisfied: (1) the promisor makes a promise that reasonably induces reliance on the promisee; (2) the promisee materially changes their position, to their detriment, in reliance on the promise; and (3) it would be inequitable for the promisee to not recover their position before bargain.

Here, Debbie is the promisor, and Pete is the promisee. Debbie's statement of "I'm desperate. If you can get the snow cleared by 5 p.m. I'll pay a premium price of $500" may reasonably induce reliance on a third party. Pete did attempt to work as fast as he possibly could, and forewent an opportunity to clear a parking lot for $400. This means that he incurred a detriment, because Pete did not receive the $400 that he could have otherwise received, but for the fact that he instead relied on Debbie's promise. However, on the balance of equities, Pete never accepted the contract. While he materially relied on Debbie's promise, he did so with the risk that she may change her mind. Pete thus, while he materially changed his position, Debbie contracted with someone else.

Accordingly, Pete may recover under a theory of reliance.

Damages entitlement
The issue is what amount Pete may be entitled to, under a theory of reliance, if he succeeds.

Reliance damages attempt to put the party in the position they may have been otherwise if the party did not rely on the representation. Typically, the measure of damages constitutes whatever material change in position parties may incur, or would have otherwise not incurred, but for the reliance. This does not amount to expectation damages, or the parties benefit of the bargain, or the incidental damages, which would be the damages entitled to based on the breach based on market standards. Instead a party's reliance damages will be their expenditures based on whatever detriment they may incur.

Here, Pete believes that he was entitled to $500. $500 was the price that Debbie was willing to pay, and would be Pete's benefit of the bargain. However, Pete is not entitled to his expectation damages, but instead, anything he forewent in detrimental reliance on Debbie's promise. This would be the $400 that Pete forewent, because of Debbie's promise. Pete otherwise would have accepted that value, and thus would be entitled to the amount he did not incur otherwise.

Accordingly, Pete would be entitled to $400.

******* MEE 2 ENDS HERE *******

CO 7/2025 MEE 2 - Selected Answer #2

******* MEE 2 STARTS HERE *******

I(a). The first issue is whether the common law or UCC controls this transaction between Debbie and Pete.
Contracts for the sale of goods are governed by the UCC (Uniform Commercial Code). Contracts for personal service are governed by the common law.

Here, the transaction between Pete and Debbie involves a service, specifically for Pete to clear the snow from Debbie's driveway.

Therefore, this is a services contract, and the common law governs.

I(b). The first issue is whether the exchange of emails between Debbie and Pete formed a contract.
To form a valid contract, there must be an offer, an acceptance, and consideration. Under the common law, an offer is a objective manifestation of an intent to be bound. An offer under the common law must contain all essential terms, including the parties, the subject matter of the contract, the price, and the quantity/terms. An acceptance is an objective manifestation of an intent to be bound by the terms of the offer (i.e.,to accept the terms of the offer). Consideration is a bargained for exchange and usually involves an exchange of money or return promises. A contract for services can be accepted by starting performance.

Here, the first exchange by Debbie is simply an inquiry into whether Pete is available and what he charges. An inquiry into availability and price is not sufficient to be an offer on its own. Later in the exchange, Pete says that he may be able to get there and that he charges $300. This is not acceptance because it does not manifest an intent on Pete's part to actually clear Debbie's driveway, just that he might be able to. Debbie's next email in which she tells Pete "if you can get the snow cleared from my driveway before 5pm, I'll pay a premium price of $500" is sufficient to be an offer. It contains the parties (Pete and Debbie), includes the subject matter of the contract (clearing the driveway) and includes the price and terms ($500 if Pete can clear by 5pm). However, Pete's response that he "will do [his] best but can't make any promises" is not a sufficient acceptance. Pete did not objectively manifest his intent to be bound by Debbie's offer, just that he would try but couldn't make any promises. Pete saying that he won't make any promises also indicates a lack of consideration of his part.

Therefore, the exchange of emails between Pete and Debbie did not form a contract.

II. The next issue is whether a contract was formed when Pete went to Debbie's house and said "I accept your offer."
An offer can be revoked by the offeror at any time before acceptance. Contracts for personal service can be accepted by starting performance. Constructive revocation occurs when the offeror takes action inconsistent with a continued intent to contract and the offeree becomes aware of that action before they effectively accept the contract.

Here, when Pete arrived at Debbie's house at 4pm, he saw himself that the driveway had already been cleared. It is reasonable to conclude then that Debbie no longer intended to extend an offer to Pete. Before this, Pete had not accepted the offer. He had not communicated his acceptance to Debbie and he had not started performance because he had not yet begun to clear the snow from her driveway. Therefore, Debbie constructively revoked her offer before Pete's acceptance.

Therefore, Pete's traveling to Debbie's house and saying to her "I accept your offer to clear your driveway" did not form a contract.

III. The next issue is whether Pete has a claim based on his reliance on Debbie's statement that she would pay a premium price of $500 if he cleared the snow from her driveway by 5pm.

Under promissory estoppel, a party can recover as if a contract was formed even if the absence of an enforceable contract if (1) the party made a statement to the other party with the intent that they rely on that statement, (2) the party does rely on that party's statement to their detriment, and (3) they suffer damages as a result. Promissory estoppel is an equitable remedy, and looks at fairness and asks whether it would be unjust to prevent the other party from recovering based on their detrimental reliance.

Here, Debbie made a statement to Pete that was made to induce his reliance on it. She told him that "If you can get the snow cleared from my driveway before 5pm, I'll pay a premium price of $500." In reliance on that statement, Pete worked extra hard and fast that day to finishing clearing snow for his regular customers. To further ensure that Pete could get to Debbie's by 5pm to clear her driveway, he passed up an opportunity to clear a parking lot for $400. This demonstrates how Pete detrimentally relied on Debbie's representation that she made with the reasonable belief that Pete would rely on it and would clear her driveway before 5pm.

Therefore, Pete has a claim under a promissory estoppel theory for his reliance on Debbie's statement that she would pay a premium price if he cleared the snow from her driveway by 5pm.

IV. The next issue is how much Pete could recover based on his claim of detrimental reliance.

In the absence of an enforceable contract, a party cannot recovery the contract price. However, reliance damages are available when a party incurs damages based on their reasonable detrimental reliance on the other party's statements. Reliance damages must be reasonably foreseeable at the time the discussions occurred.

Here, Debbie offered to pay $500 to Pete to clear her driveway before 5pm. However, there was no enforceable contract created at this price. Therefore, Pete is unlikely to be able to recover $500. However, in reliance on Debbie's statement that she would pay him a premium if he completed the driveway by a certain time, Pete passed up on opportunity to clear a parking lot for $400. These are damages that Pete incurred based on his reasonable and detrimental reliance on Debbie's statement. Further, these were reasonably foreseeable. Pete told Debbie in their email exchange that he was busy working for his regular customers on this day. To make Pete want to finish those customers quickly and get to her, Debbie offered to pay $500. It's foreseeable that Pete would pass up other opportunities in reliance on the fact that he could get paid more from Debbie.

Therefore, assuming that Pete has a valid claim of detrimental reliance/promissory estoppel against Debbie, he could recover $400 in reliance damages.

******* MEE 2 ENDS HERE *******

CO 7/2025 MEE 3 - Selected Answer #1

******* MEE 3 STARTS HERE *******

Trust Formation
A trust is formed when three roles are filled, the settlor, trustee, and beneficiary. The settlor (testator/ trustor/ grantor) is the creator of the trust. A trust that is created during life, such as an irrevocable living trust, recovable living trust, or a testamentary pour-over trust, is created by a settlor whose death and valid probated will (for the latter) activate the formation of the trust instrument. During life for the latter type of trust, the settlor can fill all three roles (settlor, trustee, and beneficiary). However, upon death for the latter type of trust, an identifiable and ascertainable person, entity, or another trust must be designated by the settlor to serve as the trustee after the settlor's death. Yet, courts are lenient with the fulfillment of the trustor role, therefore being willing to accept the election of the trustee in the event that a trustee is not named. It is said that a trust is rare to fail for the absence of a trustee.

However, the absence of a beneficiary will always result in a failed trust, regardless of its type. When the trustee and beneficiary are a single person or entity and no other beneficiaries are named, the trustee and beneficiary is said to merge, and the trust is dissolved (fails). Yet, if the trustee is also named as one of two or more beneficiaries, then the trust is valid and prevails.

Finally, the trust must adhere to the settlor's intent for creating the trust even after the settlor is deceased. This intent is known as the settlor intent or trust intent. When intent is questioned, courts sometimes may look to extrinsic evidence to determine the settlor's intent.

However, when the trust is a charitable trust, the Cy Pres doctrine is applied to determine the settlor's, and in turn the trust's, charitable intent.

Testamentary, Pour-over Trust
A testamentary trust is created when the trust instrument is written into a validly probated will. The trust assets (res) are created, poured-over, from the testator's estate. Therefore, a testamentary pour-over trust does not need to be "funded" during the testator's life to be a valid trust instrument upon his death and valid probate of his will.

Charitable Trust
A charitable trust is a trust that is created for the benefit of a specified cause or charitable organization, often a nonprofit or philanthropic foundation. The Cy Pres doctrine applies to charitable trust when interpreting the intent of the testator/ settlor of the trust comes into question. When the settlor's charitable intent is questioned or his charitable intent is no longer able to be accomplished, as seen by the intent being a relic of an antiquated lifestyle, then multiple charities may argue the Cy Pres doctrine to to get modify the trust to benefit them instead of its original antiquated benefactor.

An example of this would be a trust with the settlor's charitable intent being to have the trust funds go to organizations committed to eradicating polio disease in children in the United States. Today, polio has been fully eradicated in the United States, therefore, the trust must be modified to more modernly fulfill its settlor's intent. One modern organization could argue the Cy Pres doctrine applies in that the settlor's intent was to eradicate demylinating musical diseases in the United States, therefore, the trust should be modified to fund childhood muscular dystrophy research. A competing organization could equally argue the Cy Pres doctrine to argue that the settlor's intent was to erradicate polio period and therefore the modern funds should go to polio research in developing countries outside the United States. In these situations, the court will analyze the settlor's intent through both charity organization's interpretation of the Cy Pres doctrine, and reach a conclusion the court deems most closely in line with the settlor's intent.

(1) Bank X likely DOES need judicial approval to resign as trustee.

The question presented is whether a trustee of a testamentary, pour-over, charitable trust requires judicial approval to resign.

When the settlor has deceased, the trustee is an ascertainable entity, yet the beneficiary is a charitable organization, the trustee requires approval by the court to resign when the beneficiary charity does not unanimously consent.

The trustee in all types of trust owes the trust fiduciary duties, primary the duty of care, duty of loyalty, and duty of obedience. Under the duty of care, the trustee owes the trust the duty to act as a reasonable investor would when investing the trust funds for the benefit of the trust's beneficiaries. When the trustee has more professional or advanced knowledge than a reasonable investor would, that trustee has a heightened duty to apply its heightened knowledge to its investments for the trust.

Here, Bank X is the named trustee in settlor's testamentary pour-over charitable trust. Bank X is presumed to posses a professional, advanced, heightened knowledge of investing than the reasonable investor would due to its position as an entity in the banking industry. Therefore, Bank X owes this trust all fiduciary duties, and specifically the duty of heightened professional care.

Because this trust does not have ascertainable human beneficiaries who can all consent to Bank X's resignation, rather, the beneficiary is a charitable organization, the trustee must seek judicial approval to remove itself. When human beneficiaries are involved, those human beneficiaries must bring an action with the court when the trustee is in violation of one of its fiduciary duties, which would be the case if a trustee resigned without approval of the beneficiaries. However, when the sole beneficiary is a charitable cause, there is no ascertainable beneficiary checking the trustee's power. Therefore, the trustee could resign unilaterally, without an ascertainable human beneficiary bringing him to court. However, if the trustee Bank X did, then he would be violating his fiduciary duty to the trust, primary his duty of care to act as a professional investor.

Therefore, Bank X does need judicial approval to properly resign from trustee.

(2) Fred DOES NOT have any interest in the trust.

The question presented is whether a distant issue has interest in a testamentary pour over trust when the issue was not named in the trust or the will itself.

When a will is validly probated, all of the probate, identified assets in the will are distributed to their respective beneficiaries as described in the will. Intestacy sucession only governs the distribution of assets that are within probate (i.e. not non-probate assets) that are either left out of the will (such as property acquired after the will was written) or property that the will does not designate a specific beneficiary for. All identified property that is owned by the estate upon probate, absent successful contest, is distributed to the named beneficiaries in the will itself.

Here, Testator (settlor's) will was validly probated in 1922. In his will he bequeathed $500,000 to several art museums through the United States, $250,000 to Capital City Concert Hall, and $1,750,000 to the business college at State A University. He bequeathed the balance of his estate ($2,500,000) to a valid perpetual charitable trust, with Bank X in State A named as trustee.

Testator (settlor) did NOT bequeath any amount to Fred. No probate assets were left ouf of this will. No portion of the trust mentioned Fred's involvement. Fred was not named as a beneficiary of the will or the trust.

Therefore, Fred does not have any interest in the trust or any of Testator (settlor's) assets because Fred was neither named in the will nor listed as a beneificary of the trust.

(3) The trusts terms CAN be judicially modified.

The issue presented is whether a trust terms can be modified when the testator settlor is long deceased and the testamentary trust purpose is, given the modern day and age, defunct.

See rules above for Cy Pres.
Pay particular attention to the polio example of the application of determining charitable intent for the charitable trust.
See rules above for charitable trust.

Here, the settlor's intent was to create scholarships for (pay educational expenses) of any person who had graduated from a one room schoolhouse in State A and were attending State A University while under the age of 25. In essence, settlor wanted to charitably help people who had similar life experiences as himself growing up. However, testator was born in 1880 and died in 1922. The trust today is existing in 2010. Therefore, the conditions that the settlor experienced are not in existence today and therefore leave no persons for which can accept trust funds under settlor's original guidelines. Therefore, settlor's intent is defunk due as a relic of an antiquated life style.

Therefore, the court is permitted to step in an interpret modern charities' argument of the Cy Pres doctrine and thereby determine which modern charity best matches settlor's original intent. Considerations the court will likely look toward when making this determination, i.e. arguments that competing charities can make include rural scholars in State A; scholars under 25 in State A; scholars who attend under resourced schools in State A; scholars who attend schools under a certain enrollment number in State A; rural schools in State A; etc.

Therefore, yes the court can modify the trust.

(4) Assuming that Bank Y has been appointed trustee and that the trust terms can be judicially modified, between the suggestions offered by Bank Y and Capital City Concert Hall, a court would be more likely to adopt the BANK Y suggestion.

The question presented is when a charitable trust is modified, should a new charitable intent raising a Cy Pres argument or an independent charitable organization listed in the settlor/ testator's will, distinct from the trust, be judicially adopted.

See rules above for Cy Pres.
Pay particular attention to the polio example of the application of determining charitable intent for the charitable trust.
See rules above for charitable trust.

Here, modifying the trust to have Bank Y assume role as trustee on the condition that the trust be modified to allow Bank Y to distribute trust income to graduates of any rural public high school in State A attending a State A University is the strongest Cy Pres charitable intent preservation argument, and therefore the one that the court will most likely accept.

The intent of the settlor was, as stated above and summarized here, to create scholarships for scholars under the age of 25 who attended a one room school house in State A. Because it is now 2010 and no such one room school houses exist, the settlor's intent can still be preserved because State A is still a rural state, as it was when settlor created the trust, and therefore, modifying the trust income to go to scholars who attend such rural schools would preserve the settlro's original intent and therefore stand as a strong Cy Pres argument for Bank Y to assume trusteeship under the aforementioned income distribution conditions.

Capital City Concert Hall will assuredly lose for two primary reasons. First, the concert hall was not included in the original trust instrument as a beneficiary, either present, future, or contingent, and was not mentioned in the original trust instrument in anyway. The concert hall was merely bequeathed a given amount from the testator's estate, not from the testator's trust. Therefore, the concert hall is in no way connected to the trust and therefore should not receive the trust benefit.

Second, the concert hall does not represent a charitable intent event close to that for which the testator originally created the trust. Concert halls are homes of fine art and entertainment. This is not a leisure activity connected to one who attends a one room school house nor one for which someone of that identity is likely able to ever afford to experience. Therefore, the court is unlikely to grant the concert hall benefit from the trust because the concerts hall's charitable purpose is so disparate from that of which the original testator/ settlor created the trust.

Therefore, the Bank Y is the strongly going to be the party that the court will likely side with.

******* MEE 3 ENDS HERE *******

CO 7/2025 MEE 3 - Selected Answer #2

******* MEE 3 STARTS HERE *******

Issue 1 - Does Bank X need judicial approval to resign as Trustee?

A trustee has the ability to resign from its trustee responsibilities on the notion that it is able to obtain a qualified replacement who can adhere to the terms of the trust, is able to receive judicial approval, or able to receive consent from its beneficiaries.

Pursuant to Testator's probated will terms, Bank X in State A was named trustee and for many years adhered to the terms of Testator's will, being able to identify potential beneficiaries in accordance with the terms of the trusts. Bank X is now wishing to resign as trustee and has been able to find a qualified replacement to whom Bank X would like to recommend to take over the responsibilities of the perpetual charitable trust. Further, there is no evidence that would establish that Bank Y has any interest in the trust and would be unable to perform its duties improperly, with bias/prejudice and without care and loyalty. Given that value of the trust assets, Bank X would need judicial approval to resign as Trustee.

For such reasons, Bank X would need judicial approval.

Issue 2 - Does Fred have any interest in the trust?

A charitable trust is one issued to unascertainable and unidentifiable individuals that can be change with time and benefit the public at large. A living family relative at the death of a testator cannot be deemed to be unascertainable and identifiable because the individual is alive and can be identified.

Here, the Testator bequeathed the remainder balance of his estate - $2,500,000 - to a valid perpetual charitable trust. As explained above, the charitable trust is a trust that benefits the public at large and its beneficiaries are of the kind that can change with time and are unascertainable and unidentifiable at the point at which such trust was created. Though, Fred, the sole surviving descendant of Testator's first cousin was likely unascertainable and unidentifiable at the point at which such trust was created, Fred is unable to claim an interest in the trust because a charitable trust is deemed to benefit the public at large. Fred seeks for the principal to be distributed to him which would be against the terms of a charitable trust and would be contrary to the Testator's intent as the Testator did not bequeath anything to Testator's first cousin.

For such reasons, Fred does not have any interest in the trust as a charitable trust is for the benefit of the public at large and is not deemed to be for sole individual person.

Issue 3 - Can the trust's terms be judicially modified?

A trust terms can be judicially modified on the notion that the trust's existing terms are impracticable, impossible, have become illegal, or the terms are no longer in existence. A rather similar concept applies for charitable trusts, were the charitable purpose is no longer in existence or has become impossible. In the event, where a trust does not state what shall occur when its terms become impracticable, impossible, or where such purpose is no longer in existence, a trustee can seek to have the terms of the trust judicially modified in a manner that most closely aligns with the testator's original purpose.

Here, the Testator's expressed that the terms of the perpetual charitable trust would be that all trust income was to be distributed annually to pay the education expenses of any persons, as selected by the trustee, who had graduated from a one-room schoolhouse in State and were attending State A University while under the age of 25. For many years Bank X - the named trustee - was able to adhere to the terms having no difficulty identifying potential beneficiaries under the terms of the trust. However, over time, there was a substantial decrease in the number of students graduating from one-room schoolhouses in State A. Further, by 2010, there were no such students attending State A University, and the remaining one-room schoolhouse in State A permanently closed. Thus, leaving no longer leaving any persons to whom the trustee can distribute trust income to in accordance with the terms of the trust. Under such case, the exact purpose of the testator's terms are now no longer in existence, become impossible to adhere to. Bank Y the recommended trustee has sought to modify the terms of the trust to allow distribution of trust income to graduates of any rural public high school in State A attending State A University. Bank Y's suggested modification does align with the testator's terms of the charitable trust, as the trust income will still be distributed to pay for education expenses towards those attending State A University. Given that one-room schoolhouses are now no longer in existence,

Bank Y's suggested modification does closely align with Testator's terms which would be providing financial assistance to students attending the same university the Testator attended.

For such reasons, the trust's terms can be judicially modified because the express terms of the charitable trust are no longer attainable as the one-room schoolhouses no longer continues to exist and Bank Y's suggested modification align closely to what the testator's intent was at the time of creating the charitable trust.

Issue 4 - Assuming that Bank Y has been appointed trustee and that the trust terms can be judicially modified, between the suggestions offered by Bank Y and Capital City Concert Hall, which suggestions would a court be more likely to adopt?

As established above, the terms of a trust can be modified in the event where the purpose of the terms of the trust become impracticable, impossible, become illegal, or its purpose seeks to no longer existence. Under such case, the terms can be judicially modified in a manner that closely aligns to the best extent possible to what the testator's original intent with the terms had been.

Here, the original terms of the charitable terms were that Bank X - the assigned trustee - at the point in which such charitable trust was conveyed, was to distribute all trust income annually to pay the education expenses of any persons, as the trustee selected, to persons who had graduated from a one-room schoolhouse in State A and were attending State A University while under the age of 25. As established above, the express terms that the testator had set forth in the trust are now no longer in existence, thus making it impossible to adhere to the exact terms that Testator had established.

Bank Y seeks to modify the terms of the charitable terms to allow the trust income to be distributed to graduates of any rural public high school in State A attending State A University. Capital City Concert Hall, believes that the trust principal of $10,000,000 should be held exclusively for its benefit with trust income payable only to it. It is important to note that the Testator's probated will had bequeathed $250,000 to Capital City Concert Hall and had the Testator's intent been to convey more assets to Capital City Concert Hall, it likely would have addressed it. Further, Bank Y's suggestions - as established above - are much more closely aligned with the Testator's original intent. Bank Y wishes to distribute the trust income to students still who are attending State A University, it just seeks to distribute such income to graduates of any rural public high school in State A as opposed to just one-room schoolhouses which the Testator's original intent was. Further, Testator's original intent - as established above - is now no longer in existence and thus Bank Y's suggested modification is most closely aligned with what the testator's original intent was . Capital City Concert Hall's suggestion has no similarity or adherence in any way to what the Testator's original intent was and therefore adopt their suggestion would be contrary in all manners to what the Testator intended when he executed the perpetual charitable trust.

For such reasons, assuming Bank Y has been appointed trustee and that the trust terms can be judically modified, a court is more likely to adopt the suggestions offered by Bank Y as opposed to Capital City Concert Hall because Bank Y's suggestion align much more closely to the Testator's original intent as opposed to Capital City Concert Hall's.

******* MEE 3 ENDS HERE *******

CO 7/2025 MEE 4 - Selected Answer 1

******* MEE 4 STARTS HERE *******

1) The issue is whether the 11th Amendment bars a lawsuit for damages by a private individual against a state:
The 11th Amendment provides that no state shall be subject to a suit by a citizen of another state, reinstating common law sovereign immunity for the states from suits against private citizens. Since its passage, it has also been interpreted to bar suits against a state by its own citizens. However, there are some exceptions to the 11th Amendments primary prohibition. First, a state may consent to suit. Second, Congress may abrogate a suit's sovereign immunity, but only when it uses Section 5 of the 14th Amendment, to enact legislation putting into purpose the civil war amendments. Finally, when a state is violating federal law or the constitution, a private citizen does not violate the 11th Amendment when they sue a state officer in their official capacity for injunctive relief (the ***Ex Parte Young*** exception).

Here, State A, as a baseline under the 11th Amendment, has protection from suit from private citizens. As such, in order for sovereign immunity to not bar the man's lawsuit against State A, he would need to demonstrate that one of the exceptions applies, and there is no evidence that any do. First, the fact indicate that there is no provision of State A law that indicates that State A consents to lawsuits in federal court. Second, the Economic Incentive Act expressly states that it is passed pursuant to the interstate commerce clause, and has no indication that it was passed under Congress's Section five power, so Man cannot argue that the sovereign immunity was abrogated. Finally, the man seeks damages, not injunctive relief, so he cannot make an argument that his suit is one that falls into the ***Ex Parte Young*** exception.

As such, the man cannot bring his suit because it is barred by sovereign immunity.

2) The issue is whether sovereign immunity bars a lawsuit for damages by a private individual against a City:
While the 11th Amendment bars suits against states that are brought by private citizens in federal court unless an exception applies, the 11th Amendment does not apply to local governments, like counties and municipalities. As such, Congress can authorize a private right of action against cities and counties when they are constitutionally using any of their enumerated poweres. One such power that Congress can use to create a private right of action is the interstate commerce power. The US Supreme Court has construed the commerce power to be quite broad, and any action that impacts interstate commerce, as well as channels of commerce, will come under the commerce clause. In addition, any action that when accumulated effects intertstate commerce comes under the commerce clause, even if the individual instances are contained to a state.

Here, the woman is suing City, which is a local government municipality, and is not protected by the 11th Amendment. In addition, Congress acted validly under its commerce power, so it is able to create a private right of action against state and local municipalities. If the 11th did reach municipalities, the soverign immunity would bar the woman's suit because it does not fall into any of the exceptions outlined above (Consent by the local government, abrogation under Section 5, or the ***Ex Parte Young*** exception.

However, since the 11th amendment does not reach local governments, sovereign immunity does not bar the woman's suit, and she may continue to seek damages under the Act through its private right of action against municipalities.

3) The issue is whether the Notice Provision is an act of commandeering that violates the 10th Amendment:
Under the 10th Amendment, all powers not enumerate to Congress are left to the states. In addition, this has been interpreted to mean that Congress cannot use its powers to "commandeer" state and local governments. Commandeering takes place when through an act of Congress, Congress forces a state or local government to pass a certain state law, or conscripts state officials to support a federal function or law enforcement action that it would not otherwise take on its own volition.

Here, the Notice Provision of the Economic Incentive Act places a regulation on all employers with more than 100 employees, that requires it to provide 30 days notice prior to terminating an employee, unless it is for cause. This is not a legislative commandeering, because it does not instruct State A to pass a corresponding law. In addition, it is not executive commandeering, because it is not taking the time or energy of state officers to enact a federal initiative. It is not an act of commandeering to subject public entities to generally applicable regulations, like minimum wages, or in this case, employment regulations regarding terminations.

As such, the Notice Provision does not commandeer State A in violation of the 10th Amendment.

4) The issue is whether the Housing Provision is an act of commandeering that violates the 10th Amendment:
As indicated above, the 10th Amendment protects states and localities from legislative and executive commandeering when it provides all unenumerated powers to the states. This means that states cannot be forced against their will to use their time and energy to implement federal programs.

Here, the penalties imposed by the United States upon State A are likely such commandeering, although it may depend on their size. The clearest way to view that the Housing Provision is commandeering, is that the in the alternative, the federal government could employee its own officers and employees to process the applications that would provide Federal Funding to the private developers who will build low-income housing projects under the Economic Incentive Act. Instead, the Federal Government is using the person power of the states to do so. While the stick imposed is fines, rather than a legal mandate, this is likely still an act of commandeering because using a financial threat, it forces the state to use its limited resources to support a government program.

******* MEE 4 ENDS HERE *******

CO 7/2025 MEE 4 - Selected Answer #2

******* MEE 4 STARTS HERE *******

1) The issue is whether sovereign immunity bars the man's lawsuit against State A.

The 11th Amendment acts as a complete bar where a party sues a state. There are certain exceptions to this rule, including consent by the state and congressional abrogation. Congress can abrogate a state's immunity under a statute if their intent to abrogate is clear, and they are legislating pursuant to a valid abrogating power. The commerce clause is NOT a valid abrogating power (only the civil war amendments to the Constitution are).

Here, the man is suing State A, so this would ordinarily be barred under the 11th amendment. There is no indication that State A consented in any way to be sued. Further, even though Congress clearly stated its intent to abrogate immunity for states and municipalities under the Act, the Act is not pursuant to a valid abrogating power, since it's purpose is to regulate interstate commerce, indicating that Congress was legislating pursuant to the Commerce Clause. Since the Commerce Clause is not a valid abrogating power, the abrogation of 11th amendment immunity was ineffective. Thus, the man cannot sue since 11th amendment immunity bars it.

In conclusion, the man cannot sue since 11th amendment immunity bars it.

2) The issue is whether sovereign immunity bars the woman's lawsuit against City.

While the 11th amendment protects states and state officials, it does not extend to municipalities. Accordingly, municipalities can still be sued by individuals.

Here, the woman is suing City, a municipality, so the 11th amendment does not apply. Accordingly, the woman's suit will not be barred by the 11th amendment.

In conclusion, the 11th amendment does not bar the woman's lawsuit against City.

3) The issue is whether the Notice provision violates the 10th amendment.

The 10th amendment's "anti-commandeering" clause prevents the federal government from directing a state legislature to enact legislation, or from directing the state's police power to carry out the federal government's regulatory agenda. The 10th amendment does not bar, however, neutral and generally-applicable employment laws created by the federal government from applying to state agencies in their capacities as employers.

Here, the Notice provision prohibits "any employer with more than 100 employees from terminating an employee's employment without cause on less than 30 days' notice." This provision does not specifically apply to the states only. It neither compels state legislatures to enact legislation, nor co-opts the police power of a state. It merely subjects states, like any other large employer, to a generally-applicable law. Accordingly, the Notice provision does not violate the anti-commandeering clause.

In conclusion, the Notice provision does NOT violate the 10th amendment.

4) The issue is whether the Housing provision violates the 10th amendment.

As stated above, the 10th amendment's "anti-commandeering" clause prevents the federal government from directing a state legislature to enact legislation, or from directing the state's police power to carry out the federal government's regulatory agenda.

Here, the Housing provision "directs designated municipalities to administer the federal grant program by accepting applications for grants, reviewing the applications, making decisions, and enforcing the Act's requirements." This is a blatant example of the federal government taking

control of a state police power in order to carry out its regulatory agenda. Accordingly, this Housing provision violates the anti-commandeering clause.

In conclusion, the Housing provision violates the 10th amendment.

******* MEE 4 ENDS HERE *******

CO 7/2025 MEE 5 - Selected Answer #1

******* MEE 5 STARTS HERE *******

1. The principal's search of the student's jacket pockets did not violate the 4th Amendment.

The issue is whether the search by the principal was a reasonable search by a school official as to bring it into an exception to the warrant requirement.

The first eight amendments of the Constitution, often called the Bill of Rights, apply to the states through the 14th Amendment. Thus, the 4th Amendment applies to State A through the 14th Amendment. The 4th Amendment applies to state action (action by state officials) and protects citizens from unreasonable searches and seizures.

A "search" is an intrusion into a place where one has a reasonable expectation of privacy ("REOP") or into a constitutionally protected area. The general rule is that a state actor must have probable cause and a valid warrant for a search, or instead, an exception to the warrant requirement.

Here, the 4th Amendment applies to the principal, because he is a state actor--he is the principal of a public high school. Thus, the 4th Amendment prohibition on unreasonable searches and seizures applies to the principal.

Here, the student likely also had REOP in his jacket pockets. It is a jacket he owns, and it is on his person. Thus, the principal needed either a valid warrant or an exception to the warrant requirement to search the student's jacket pockets.

One exception to the warrant requirement is searches by school officials. Students in public high schools generally have reduced constitutional protections. School officials may search students if:

(1) They reasonably suspect wrongdoing by the student,
(2) There is a reasonable possibility the search will produce evidence of the wrongdoing,
(3) The methods used for the search are reasonable, and
(4) The search is not overly intrusive in light of the age and sex of the student.

First, the principal reasonably suspected wrongdoing by the student. "Reasonable suspicion" is specific, articulable facts known to or observed by the state actor which would create an assumption in the mind of a reasonable person of wrongdoing/criminal activity. Reasonable suspicion is a totality of the circumstances test. First, the principal saw the student walk to the gas station, which was against the school rules. The student was also doing this during the last class of the day, which is probably also against school rules. Next, the principal observed the student walk close to a car, talk to the driver, and hand something to the driver. This occurred at a gas station known by police as the site of frequent drug dealing. Even though the principal could not see whether the student took anything from the driver, the principal saw the student put his hands in the front pockets of his jacket after the driver left. These are articulable facts that give the principal reasonable suspicion, based on a totality of the circumstances, that the student was buying or selling drugs in violation of school rules.

Next, there was a reasonable possibility that searching the student's jacket pockets would produce evidence of drug dealing. The principal saw the student put his hands in the front pockets of his jacked after the driver left. The principal conducted the search only 10 minutes after the student returned to the school. Thus, the second prong is met.

Third, the methods used for the principal's search likely were reasonable and reasonably related to the objectives of the search. The principal's objective was to uncover evidence of drug dealing. The principal did not subject the student to a strip search, which is sometimes an unconstitutional search of students. He simply reached into the student's jacket pockets, which is where he saw the student put his hands after the suspected drug deal with the car driver.

Once he found the plastic bag containing two white pills, the principal ended the search of the student and told him to return to class.

Finally, the search was likely not overly intrusive in light of the age and sex of the student. One one had, the principal reached into the front pockets of the student's jacket, which he was still wearing. The principal could have made the search less intrusive by asking the student to first remove his jacket. However, this is a high school student who is a male. Thus, the search was likely not overly intrusive.

The principal's search of the student's jacket pockets did not violate the 4th Amendment.

2. The principal's search of the student's locker did not violate the student's rights under the Fourth Amendment.

The issue is whether the student had a reasonable expectation of privacy ("REOP") in his locker.

As discussed above, a person only has 4th Amendment rights in places that are either (1) a constitutionally protected area, or (2) a place in which the person has a REOP. Whether a person has a REOP in a place searched is based on a totality of the circumstances.

Here, the student's locker is not a constitutionally protected area. The student likely also had no REOP in his locker. The school's locker policy provides that an assigned locker may be searched at any time, and that the school administration has a master key to all lockers. That policy is in the student handbook. Also, each locker has a stick that states, "This locker is property of LPSD and may be subject to search." Thus, under a totality of the circumstances, the student probably did not reasonably believe that he had an expectation of privacy in his locker, and should have expected his locker to be searched.

Next, the principal had a reasonable belief that a search of the locker would turn up evidence of wrongdoing. It was against school rules to have medications without permission. Before searching the locker, the principal had found unmarked pills in the student's pocket that he did not have permission to have at school. Thus, it was a reasonable to believe that searching the student's locker would produce evidence that that the student was violating school rules.

The principal's search of the student's locker did not violate the student's rights under the Fourth Amendment.

3. The officer's search of the student's text messages violated the student's rights under the 4th Amendment.

As discussed above, state actors and police officers generally must have probable cause and valid warrant to conduct searches of people and things. If they do not have a warrant, the police can instead rely on an exception to the warrant requirement. Probable cause is specific facts and circumstances known to the police officer that would cause a reasonable person to believe that a crime has been committed for which arrest is authorized by law.

One exception to the warrant requirement is the search incident to constitutional arrest. Contemporaneously in time and place to a constitutional arrest, a police officer may search the person arrested and their wingspan. Here, the police officer's arrest of student was constitutional, because it was based on a valid arrest warrant. The warrant was based on probable cause, because the police officer had specific facts and circumstances known to him that would cause a reasonable person to believe that a crime has been committed for which arrest is authorized by law. He had information from the principal that there were possible drugs in the student's locker. Chemical testing confirmed that the drugs were illegal drugs. This creates probable cause.

Thus, the police officer was authorized to search the student and his person for evidence and instrumentalities of a crime. Thus, this authorized the police officer to remove the student's cell phone from the student's person.

Generally, when a police officer seizes a person's phone incident to constitutional arrest, they may search the exterior of its phone and its exterior qualities, but must obtain a search warrant for the phone's data and digital contents. It likely does not matter that the student's cell phone

was unlocked. The officer was not authorized to search the text messages under the 4th Amendment.

The only exception that might apply is the evanescent evidence exception to the warrant requirement, that provides that police may conduct a search without a warrant if evidence is likely to disappear in the time it takes them to get a warrant. However, this does not apply here. The text messages would still be on the phone if the police confiscated it and waited to get a warrant.

Thus, the officer's search of the student's text messages violated the student's rights under the 4th Amendment.

******* MEE 5 ENDS HERE *******

CO 7/2025 MEE 5 - Selected Answer #2

******* MEE 5 STARTS HERE *******

Criminal Procedure

1. The issue is whether the principal's search of the student's jacket pockets violated the 4th Amendment
The 4th Amendment of the US Constitution protects from unreasonable searches and seizures of our persons, houses, places and effects, by state actors, without a valid warrant.
Absent a warrant, state actor may conduct a brief search under the stop and frisk exception so long as they have reasonable suspicion. Reasonable suspicion is more than a hunch, requiring, in light of the totality of the circumstances, specific and articulable facts that crime is afoot or that evidence of crime exists. A party may develop probable cause during a stop.

Here, the principal is a state actor because the school in City is a public high school, subject to 4th Amendment protections. During the school day, the pricipal personally observed the student walking towards the gas station prohibited by school policies. The student walks close to a car, talked to the driver, hand something to the driver. Although the principal did not see whether the student took anything from the driver, he saw the student put his hands in the front pocket after the driver drove away. Given that the school policies were to deter against drug dealing activities rampant in that particular gas station, and in light of the totality of the circumstances, the principal had enough reasonable suspicion to briefly search the student under the stop and frisk exception. The principal's search was also limited to the areas where he saw the student put his hands, where he retrieved the two white pills. Those white pills were immediate contraband items because they were prohibited by school policies and the student had no permission to possess them, allowing the principal's reasonable suspicion developed to probable cause. Accordingly, the principal's search of the student's jacket did not violate the 4th Amendment.

2. The issue is whether the principal's search of the student's locker-wherein the student had no reasonable expectation of privacy-violated the 4th Amendment

The 4th Amendment of the US Constitution protects from unreasonable searches by state actors without a valid warrant or warrant exception. A party must have had a reasonable expectation of privacy in the place/thing being searched to assert a 4th Amendment violation. Warrant exceptions also require probable cause. One of the warrant exception arises in relation to administrative searches, which may be conducted without a warrant, so long as they are limited in scope pursuant to applicable procedure, and are not unreasonably coercive and intrusive. Finally, items in plain view or perceived with plain smell may be seized so long as the party was legally present and observed the item whose evidentiary nature is immediately apparent without additional manipulation.

Here, the student has no reasonable expectation of privacy in the assigned locker because it is the property of the Local Public School District (LPSD). The locker policy provides that it is subject to search at any time, both in the student handbook and via a sticker placed on every locker, and that it can be opened with the administration's master key. The principal developed probable cause during his search of the student (discussed on 1 above). Thus, the principal did not need a warrant to access the student's locker.
Alternatively, the principal properly opened the locker with a master key to carry out an administrative search, which he did not need a warrant for.
Upon opening the locker, the principal observed the clear plastic bottle containing the same kind of pills previously confiscated. The principal also saw items that looked and smelled like marijuana and properly seized them.
Accordingly, the search of the locker did not violate the student's rights because the student had no reasonable expectation of privacy and it was conducted properly pursuant to an administrative exception to warrant requirements.

3. The issue is whether the officer's search of the contents of the student's phone retrieved

pursuant to a search incident to lawful arrest violated the 4th Amendment

The 4th Amendment of the US Constitution protects from unreasonable searches by state actors without a valid warrant or warrant exception. One of the warrant exception arises in relation to searches incident to lawful arrest, which allows a limited search of the arrestee's wingspan and items attached to the arrestee, for officer safety. This limited search is for weapons, as well as evidence of the suspected crime afoot to the extent that they are immediately apparent to the officer. Any further search of electronic items require a warrant because the arrestee has a reasonable expectation of privacy in them and they do not contain evidence that can be quickly destroyed or that immediately threaten officer safety. An arrestee may also consent to a search, triggering another warrant exception.

In this case, the officers arrested the student pursuant to a valid arrest obtained the previous evening. They properly searched the student and his backpack, which was attached to him for evidence of further crime which may be quickly destroyed, and for officer safety. Although the student's cellphone was unlocked, the student had a reasonable expectation of privacy in the cellphone. Also, the cellphone did not threathen officer's safety nor did it contain evidence that could quickly have been destroyed under those circumstances. Further, there are no facts to show that the student consented to the officers searching his unlocked phone and reading his text messages which contained discussions of meeting times and places, "units," and "cost." Thus, the officers needed a warrant to search through the contents of the cellphone absent any exceptions.
Accordingly, the search of the student's textt messages violated the student's 4th Amendment rights.

******* MEE 5 ENDS HERE *******

CO 7/2025 MEE 6 - Selected Answer #1

******* MEE 6 STARTS HERE *******

Question 6

Jane's Direct Liability for Negligence

Jane is directly liable to the neighbor in a negligence action.

The issue is whether all four of the distinct negligence elements will be met by Jane's conduct.

A tort action alleging direct negligence requires a finding of four elements: 1) that the defendant had a **duty** to the plaintiff, 2) that the standard of care created by that duty was **breached** by the defendant, 3) that the breach was both the actual and proximate **cause** of the harm to the plaintiff, and 4) that the plaintiff has some entitlement to **damages** based on the harm caused by the breach. A defendant has a duty to all foreseeable plaintiffs and that duty establishes a standard of care that the defendant behave in such a way that reflects what a reasonably prudent person would do in the circumstances. If the defendant did not behave according to such a standard of care, breach will be found. Actual cause is established if the defendant's breach was a but-for cause of the damage to the plaintiff (even if it is not the sole but-for cause it just must be one of them). Proximate cause is established if the harm caused by the breach is the kind that is foreseeable based on such an action (even if the way in which the damage was caused is not foreseeable). Damages can be established in various ways, often calculated damages include compensatory damages for economic harm done to a person or their property and damages for emotional harm.

All four of the above elements will easily be met in a claim against Jane for negligence. Jane had a duty to act reasonably in driving and parking he car and this duty extended to the plaintiffs whose persons and property were in foreseeable reach of damage. The neighbor lived on the street in which Jane was driving and Jane thus had a duty to act reasonably toward the neighbor and his property. A reasonably prudent person would not forget to put a car into park, especially when driving on a hilly street and not engaging the parking break. The distraction of the phone call and the failure of Jane to put the car into park on a hilly street, especially given that it is old and would likely need both the car in park and the parking break, will be sufficiently unreasonable to constitute breach. Jane's failure to put the car in park was the actual but-for cause of the harm to the neighbor's car. Had she not forgotten to put the car in park and then forgotten to put the parking break on, the car would not have rolled down the hill and hit the sign and the sign would not have fallen onto the neighbor's car. Homeowner's failure to say anything whens he saw the car rolling down the hill will not impact Jane's liability since she clearly was a but-for cause of the damage. The foreseeability requirement of proximate cause will be met since damage to another car on the street is clearly a foreseeable result of forgetting to put the car in park on a hilly road in a neighborhood. It does not matter that the sign caused the damage instead of the truck directly hitting the neighbor's car since the foreseeability test does not require that the way in which the harm occurred be foreseeable, just the harm itself. Damage, discussed in more detail below, will be easily established since economic property harm can be shown by the damage to the neighbor's car and the need to pay for repairs.

All four negligence requirements are met and thus Jane will be liable to neighbor in a negligence action

Quick Mailboxes' Liability

Quick Mailboxes will be vicariously liable for Jane's negligence but will not be directly liable.

The issue for finding vicarious liability is whether Jane was an employee of Quick Mailboxes and was acting within the scope of her employment when she acted negligently by forgetting to put the truck in park. The issue for finding direct liability is whether Quick Mailboxes was negligent in its hiring practices and in its hiring of Jane. I will discuss each issue in turn.

An employer is liable for the negligence of their employees when the employee is acting within the scope of their employment. This same rule does not apply to independent contractors, who will only subject an employer to vicarious liability if they are performing an inherently dangerous function or if the employer delegated a non-delegable duty to the contractor. The scope of employment includes all duties of an employee and some minor deviations from such duties, considered a "frolic".

Here, Jane is an employee of Quick Mailboxes. An employee, as opposed to an independent contractor, is someone who the employer exercises control over the way in which they exercise their duties and complete their tasks. Jane is under the control of Quick Mailboxes, works for them 20 hours a week, and uses their property to complete their work (the pickup truck). Her relationship with Quick Mailboxes indicates that she is an employee, not an independent contractor. She was acting within the scope of her employment by going to fix a mailbox that the employer directed her to fix. She was driving company property and was on duty at the time of the negligence. The fact that she took a phone call does not mean she was not acting within the scope of her employment, if anything this would be a mere frolic and would not be outside of the scope of employment. Because she was acting within the scope of her employment and behaved negligently, Quick Mailboxes is vicariously liable.

Quick Mailboxes is not directly liable since it did not negligently hire Jane or conduct negligent hiring practices.

An employer can be directly liable for the actions of an employee if it can be established that they conducted hiring negligently.

Here, Quick Mailboxes conducts background checks, verifies driver's licenses, and trains the employees. Nothing in the facts indicates that they perform their hiring practices negligently or did so when hiring Jane. They will not be directly liable.

Homeowner's Liability for Hiring

Homeowner will not be liable for hiring Quick Mailboxes.

Vicarious liability for negligence only applies to employers who have hired employees who have committed a tort or who have hired independent contractors for a nondelegable duty or an inherently dangerous duty.

Here, homeowner called Quick Mailboxes and stated directly, "I don't care how you fix it; I just want it done by the end of the week." This clearly shows that homeowner had little to no control over the way in which Quick Mailboxes performed the duty delegated to them and they are thus an independent contractor. Fixing mailboxes is delegable and there is nothing inherently dangerous involved in the activity, nor was homeowner negligent in any capacity in hiring Quick Mailboxes and thus homeowner will not be liable for any of Jane's actions or for hiring Quick Mailboxes.

Neighbor's Recovery: Cost of Car Repairs

Neighbor will be able to recover for the cost of the car repairs even though they were unusually expensive.

The issue is whether a negligent actor is only liable for the kind of damage that would be caused had the harm been inflicted on a typical person or object.

A negligent actor takes their plaintiff as they find them. This is coloquially known as the "eggshell plaintiff rule" and it establishes that just because an item is more expensive than the typical item that would be owned by a plaintiff or a plaintiff suffers more harm than the typical person would does not limit the liability of the defendant to what a typical person would suffer in damages.

Here, the car's repairs cost $55,000, which is significantly more than a standard repair would cost and the luxury car was worth $430,000, must more than a standard car. This, however, does not impact what neighbor will be able to collect because of the eggshell plaintiff rule. Jane takes the neighbor and his property as she finds them and is liable for damages despite the fact that they are in excess of what would typically be suffered by a standard plaintiff without a luxury

car.

Neighbor's Recovery: Emotional Harm

Neighbor will not be able to recover for emotional harm.

The issue is whether damages can be collected for emotional harm caused solely by the observation of property damage outside from inside of the home.

There are two ways in which a plaintiff can recover for negligent infliction of emotional distress, which must be proved by some sort of physical harm to the plaintiff caused by such distress. 1) A plaintiff who was within the zone of danger when the tort occurred can recover for emotional distress, and 2) a plaintiff who observed the commission of a tort that caused severe bodily harm to a close relative of the plaintiff can recover for such distress.

Here, the neighbor was inside of the house when the truck rolled down the street and the sign hit the car. Since he was not close to being personally physically harmed by the events, he will not be considered to be within the zone of danger. The neighbor may have a sentimental attachment to the car, but this is not sufficient to show that he is entitled to emotional distress since this was not damage to a person who was a close family member.

Since neither of the theories for negligent infliction of emotional distress can be met here, the neighbor will not be entitled to recovery for his emotional harm, even though it required medical attention.

******* MEE 6 ENDS HERE *******

CO 7/2025 MEE 6 - Selected Answer #2

******* MEE 6 STARTS HERE *******

Issue 1: Jane's Liability to the Neighbor in a Negligence Action

In order to succeed in a negligence claim, a plaintiff must prove the following four elements: duty, breach, causation, and damages. Causation is measured by two separate elements: cause-in-fact or but-for causation, as well as proximate cause, otherwise known as reasonable foreseeability. Where all the elements of a negligence claim can be proven, the plaintiff will have a successful claim; where any one of the elements is missing, the defendant will succeed.

Here, most of the elements of a negligence claim can likely be brought against Jane with relatively little difficulty. She had a duty as a driver to exercise a reasonable level of care when operating her vehicle; she breached that duty by failing to put the car in park or engage the parking break despite being parked on a hilly street; this negligence was the but-for cause of the neighbor's damages, and the neighbor suffered property damages of the type that are recoverable in a negligence action.

As such, the determining factor in Jane's direct liability is whether or not there was proximate cause. Jane would likely argue that her lack of using the parking break then leading to the car hitting a sign, which would then fall onto a luxury car, was outside of the scope of reasonable foreseeable events. However, the neighbor would likely argue that it is entirely foreseeable that if you fail to properly park a car on a hilly street, that the car will role, and that the rolling car will end up damaging someone's property. In this case, the neighbor's pro-foreseeability argument is likely the stronger one.

As such, all of the elements of a negligence claim are satisfied, and Jane can be held directly liable for her actions.

Issue 2: Quick Mailboxes' Liability to the Neighbor

(a) Liability in a Direct Action

In order to be liable in a direct action for negligence, an employer typically must have committed some sort of direct action. In this case, the most likely route for such a claim would be through a claim of negligent hiring.

However, there is no evidence here that Quick Mailboxes engaged in negligent hiring. They conduct background checks, verify their drivers' licenses, and train them as needed. Nothing in the fact pattern suggests that Quick Mailboxes is either negligent in its general hiring practices, nor in its hiring of Jane, and as such, they will likely not be liable in a direct negligence action.

(b) Vicarious Liability

Vicarious liability may be imposed on an employer when two elements are met: (1) the negligent person was an employee of the employer at the time of the tort, and (2) that the negligent behavior occurred within the scope of employment. To be deemed within the scope of employment, the employee may be on a detour from their job duties (which is a minor deviation) but not on a frolic (which is a major deviation).

Here, there is little doubt that Jane was an employee of Quick Mailboxes; she worked for them 20 hours a week and arrived at the job site in a company vehicle. Moreover, she was also likely acting within the scope of employment; she was at the house to do a mailbox repair job and exited the car in order to talk to the customer. Quick Mailboxes may argue that Jane was on a frolic at the time of the negligent act because of her personal phone call, but at most, this behavior was likely a detour and not a frolic due to the relatively small amount of time it took.

As such, Jane was an employee of Quick Mailboxes and acting within the scope of her employment, and as such, Quick Mailboxes may be held liable for her negligence.

Issue 3: Homeowner's Liability for Hiring Quick Mailboxes

Where vicarious liability is typically imposed on employers, it is typically not imposed on independent contractors. To tell if someone is an employee or a contractor, the court will look to see at the structure of payments between the parties, how often the person does work for the other, and who provided the tools required for the work to be done.

Here, Jane and Quick Mailboxes are likely independent contractors hired by the homeowner, not the homeowner's employee(s). This was a one-off job that the homeowner needed done, and they would have paid a one-time charge for the completed work. Jane arrived in a Quick Mailboxes vehicle and had tools provided by Quick Mailboxes, not the homeowner. Moreover, there is no evidence that the decision to hire Quick Mailboxes in the first place was itself negligent.

As such, the homeowner had an independent contractor relationship with Jane and Quick Mailboxes, and therefore cannot be held liable for their negligence.

Issue 4: Assuming Party Liability

(a) Neighbor's Ability to Recover Cost of the Repairs

The eggshell plaintiff rule allows for a plaintiff to recover the full scope of their damages when the tort at issue was foreseeable. This rule applies even when the full extend of the damages caused by the tort was not foreseeable.

Here, the neighbor will be able to recover the full repair costs in the event that any of the parties are liable. This is because for the parties to be liable, the damage to his car must have been foreseeable. As such, the extent and cost of the damages do not need to be foreseeable in order for the neighbor to recover. The defendants must accept their plaintiff as they found him.

As such, the neighbor will be able to recover for the full cost of his damages despite the repairs being unusually expensive.

(b) Neighbor's Ability to Recover Damages for Emotional Harm

In order to claim damages for emotional distress, a plaintiff must prove that they suffered severe emotional harm from conduct on behalf of the plaintiff that was either intentional or reckless (for intentional infliction of emotional harm) or negligent (for negligent infliction of emotional harm).

Here, the neighbor will likely have trouble proving any of the necessary elements of either claim. To recover emotion harm damages from an accident like this, the person must typically be within the "zone of danger" of the accident. This is not the case here, as the neighbor was inside of his home at the time of the accident.

However, a plaintiff outside the zone of danger may still recover for emotional damages if they see a family member in the zone of danger and suffer serious emotional distress as a result. Here, the neighbor does not witness harm or potential harm to a family member, but rather to a beloved piece of property. As such, this alternative theory of recovery will also be unavailable to him.

Therefore, the neighbor will be unable to recover damages for emotional harm, even in the scenario where one of the parties is liable for damages to his car.

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