

# PROPOSED STATE BAR EXAMINATION ESSAY QUESTION

By Evan Gutman CPA, JD (2013)

In this short section, I propose an essay question for the State Bar Examination, which Applicants to the State Bar are required to pass. I then present a Model Answer to the question. The Model Answer presents what I believe is the most correct and appropriate answer to the question. Consequently, it should result in the exam taker receiving maximum credit for answering the question fully, accurately and correctly. Naturally, the Model Answer includes all citations to pertinent and applicable law.

By the same token, I must admit I present both the proposed essay question and the Model Answer in a spirit of humor. It is quite possible and perhaps even likely that no State Bar will ever include this question on their exam. But, you never know. Perhaps, if the Board of Bar Examiners in a particular State were suddenly overcome by a wave of candor and sincerity, they might.

The essay portion of the State Bar exam for most states is typically based on the applicable State law in which the exam taker sits. This is in contrast to the Multistate portion of the Bar Exam, which is in a multiple choice format and applicable to all States that use it. Thus, to present my proposed State Bar essay examination question properly, I obviously had to choose a specific State. This is because the laws of different States vary in many ways. I have selected the State of Oregon. Although Oregon law is to be applied to the question, in many regards both the spirit and humor intended are equally applicable to probably all States. So here it is.

## PROPOSED STATE BAR ESSAY EXAMINATION QUESTION:

**FACTS:** Bob purchased a car from Drippy Auto Sales on an installment basis. Bob then filed for bankruptcy. He then called the salesman on the phone who he had purchased the car from and told the salesman that he would reaffirm the debt in the bankruptcy so as not to lose the car. The salesman then met with Bob and got him to sign documents. The documents given to Bob by the salesman provided that a different car dealer named Lippy Used Cars would buy the car from Bob, pay off the debt to Drippy Auto Sales and then resell the car to Bob so he'd be able to keep it. However, the price to Bob would be higher than the amount remaining on the installment contract owed to Drippy Auto Sales. Bob signed the documents, and then defaulted on the payments. Lippy Used

Cars then repossessed the vehicle, sold it for less than was due on its contract and then sued Bob in the Marion County Circuit Court of Oregon for the remaining balance due on the contract.

**Instructions to Applicant:** Who will win this case in Court and why? Write an essay describing how the trial court will decide the case. Your answer should take into account all facts, pertinent Oregon statutes, case law, and local custom that the trial court Judge will take into consideration in rendering his opinion. To receive maximum credit, your answer should be sufficiently comprehensive to address all applicable aspects of the law, State statutes, rules, regulations and judicial opinions that will be applied by the trial court in rendering its decision. However, your answer should also be as brief and concise as possible and not address anything that will not be pertinent to the Judge's decision. Remember, to receive maximum credit you need to explain who will win and why in as brief, but fully comprehensive manner as possible.

## **MODEL ANSWER:**

Whoever the Judge likes more will win.