Question Number 1

Jack owns property on the outskirts of Anytown, Ohio. Adjacent to Jack's property was a vacant lot that had unrestricted zoning. Sam purchased the vacant lot and erected a small children's amusement park named "KidLand," which Sam owned and operated as a sole proprietorship. KidLand featured several amusement park rides including a carousel that loudly played organ music.

KidLand, the only amusement park within 100 miles of Anytown, was open to the public every day from noon to midnight. The noise from the crowds and the nonstop music kept Jack from getting to sleep at any time before midnight. Jack was also no longer able to sit on his back deck and enjoy a quiet evening at home.

Sam usually parked his personal automobile on the road on the other side of Jack's property and occasionally took a shortcut to and from KidLand across Jack's backyard. After closing up KidLand at midnight, Sam would walk back to his automobile in the dark and, over the period of a few nights, thoroughly trampled the vegetable garden that had been recently planted by Jack.

One of the amusement rides in KidLand was a "Whirl-a-gig," which consisted of "cars" mounted on rotating arms. The Whirl-a-gig was manufactured by Acme Amusement Co. and also installed at KidLand by Acme. One day while Sam was operating the Whirl-a-gig, a defective anchor bolt supplied by Acme and which secured one of the cars to a rotating arm snapped. As a result, one of the Whirl-a-gig cars, which fortunately was unoccupied, was propelled into Jack's backyard and smashed into Jack's vintage automobile.

Based on these facts, what are the elements of the causes of action that Jack can assert, against whom may he assert each such cause of action, and would he be likely to prevail on each? Explain your answers fully.

Question Number 2

Defendant has been indicted for aggravated murder in the State of Ohio. Counsel was appointed for Defendant due to his indigency. Defendant is accused of strangling his mother at a family celebration of his mother's 80th birthday. Defendant confessed and completely admitted the alleged acts, but Defendant claimed that the government's new stimulus package required him to kill his mother.

At his arraignment, Defendant orally pled not guilty and not guilty by reason of insanity. Through counsel, Defendant moved the Court to determine his present competency to stand trial and also filed a motion to suppress Defendant's confession.

The Court set pretrial and trial dates for 60 days later and ordered Defendant be examined by a psychiatrist employed by a state forensic agency. The Court set a hearing on the motion to suppress for 14 days later.

Before the hearing on the motion to suppress, defense counsel moved for the appointment of a private psychiatrist of Defendant's choosing to examine Defendant on the issues of competency and insanity. The Court denied the motion. Defense counsel also objected to any further proceedings until the issue of Defendant's present competency was determined. The Court overruled this objection. The hearing on the motion to suppress proceeded as scheduled, and the Court overruled Defendant's motion to suppress the confession.

Later, the Court received sanity and competency reports from the court-appointed psychiatrist. In the sanity report, the psychiatrist indicated that Defendant's reason was so impaired at the time of the act that Defendant did not have the ability to refrain from committing the alleged criminal act. In the competency report, however, the psychiatrist concluded that Defendant was presently competent to stand trial; the sole basis for this conclusion was that "Defendant is able to understand the nature and objective of the proceedings against him." On that basis, and over defense counsel's objection, the Court found Defendant competent to stand trial, and the trial proceeded.

The State presented witnesses' testimony and Defendant's confession. Defendant, without objection by the State, presented the sanity report and the testimony of the court-appointed psychiatrist. Among the jury instructions given by the Court were the following: (i) that the State had the sole burden of proof in this case and (ii) that, even if Defendant did commit the alleged acts, he is not guilty by reason of insanity if his reason was so impaired at the time of the commission of this offense that he did not have the ability to refrain from doing the acts. The jury deliberated and found Defendant not guilty by reason of insanity.

(1) Were Defendant's pleas at his arraignment properly made?

(2) Did the Court err in denying Defendant's motion for a psychiatrist of his choosing?

(3) Did the Court err in refusing to delay the hearing on the motion to suppress until after determination of Defendant's competency?

(4) Did the Court err in finding Defendant competent to stand trial on the basis of the conclusion stated in the psychiatrist's competency report?

(5) Were the two jury instructions recited above correct?

Explain your answers fully.

Question Number 3

Lake City, Ohio has within its city limits a world famous fresh water spring from which the municipal water department historically has drawn water for distribution to residential and commercial customers. Determined to address a potential water and environmental crisis, Lake City enacted an ordinance intended to reduce water consumption and enhance water quality in the municipality. The ordinance provided that henceforth use of the spring water would be strictly limited to residents and businesses located within the city limits of Lake City for local use and consumption. Any business that had received spring water for resale or commercial use during the previous ten years would be required to pay a user fee, calculated retroactively, based on the amount of their water bills for the past ten years. The user fee would be used to pay for deferred maintenance necessary to bring the municipal water works into compliance with state and federal environmental protection laws.

For 25 years, SweetAqua Co. ("SweetAqua") has operated a bottling plant within the city limits of Lake City, where it bottles the water purchased from Lake City and sells it to a nationwide customer base. Its contract with Lake City did not contain any provision regarding a user fee such as that imposed by the new ordinance. SweetAqua received notice from the city that it would no longer be permitted to purchase water and that it owed hundreds of thousands of dollars in user fees because of its extensive purchases over the past ten years. Unless SweetAqua receives relief from the ordinance, it will be forced to close its Lake City operations, lay off its local employees, and abandon or liquidate its multi-million dollar local plant, all at a great financial loss.

Family Water Park ("Park") has operated a water-park amusement facility just outside of Lake City's city limits for more than 20 years, drawing local summer vacationers as well as tourists from surrounding states. During all that time, Park has purchased its water from Lake City. Under the new ordinance, Park will no longer be permitted to obtain its water from Lake City after Park's contract ends in two months. The only potential alternate source of water required for Park's operation is water from a nearby municipality. However, the water would have to be hauled by truck to Park or a pipeline to carry the water to Park would have to be constructed. Either alternative would be substantially more expensive than Lake City water. Moreover, Lake City water will be made available to Park's newly established competitor, CitySlides, located less than a mile away but inside the city limits of Lake City, placing Park at a significant competitive disadvantage.

Lake City asserts that the ordinance is a rationally based regulation in furtherance of its legitimate governmental functions.

What arguments, if any, might SweetAqua and Park each reasonably make that Lake City's ordinance violates their rights under the following clauses of the United States Constitution:

1. Takings Clause?

2. Substantive Due Process Clause?

3. Privileges and Immunities Clause?

4. Impairment of Contracts Clause?

Explain your answers fully.

Question Number 4

Pursuant to a written agreement, Rich hired Agent in Anytown, Ohio, to manage his 500-unit apartment building and an investment portfolio of stocks and negotiable promissory notes payable to Rich or his order. Rich delivered his investment portfolio of the stock certificates (signed by Rich) and the promissory notes (not signed by Rich) to Agent.

Rich had an existing relationship with Bank by which Bank periodically made 90-day loans to Rich to cover operating expenses for the apartments. Rich introduced Agent to Bank as his new apartment manager for operational purposes only and told Bank that it was authorized to continue the customary financial arrangements with Agent as apartment manager so as to allow Agent to obtain 90-day bank loans for operational purposes when required.

Agent signed a lease with Barbara for an apartment for one year at $400 per month, which was less than half of the prevailing rent. Agent and his Girlfriend also lived in the apartment building, and Agent told all tenants, including Barbara, to deliver all rent payments to Girlfriend. Barbara also gave Girlfriend a security deposit of $400. Girlfriend used all the money she collected to buy new clothes for herself.
One month after Agent assumed management of the building, Agent borrowed $30,000 from the Bank for operating expenses, which he used to pay personal expenses for himself and Girlfriend. This loan has never been repaid.

Without informing or consulting with Rich, Agent contracted with Contractor to build a garage adjacent to the building for $500,000. Agent then arranged with Bank for a 20-year $500,000 mortgage loan to pay for the construction of the garage and gave Bank a mortgage on the apartment building to secure the loan. Although Rich had not approved the new garage, he saw the construction of the garage when he drove by the apartment building once each week. The garage was completed, but Contractor has not been paid. The proceeds from the loan have vanished.

Agent contacted Rich and told him stock in the ABC Company was available for $100,000. Rich provided Agent with $100,000 and told him to buy the stock. ABC Company transferred the stock certificates to Rich but delivered them to Agent, but Agent did not pay the $100,000.

Agent sold all of Rich's stock and promissory notes at their fair market value, and the stock and promissory notes were delivered to Purchaser and payment made to Agent. The proceeds of the sale have vanished.

Agent and Girlfriend are living happily somewhere in South America, and the money has vanished.

1. Barbara has filed suit against Rich for the return of the security deposit. Rich has filed a counterclaim against Barbara for fair market value for the rent for the apartment and for the rent paid to Girlfriend.

2. Contractor has sued Rich for $500,000 for the construction.

3. Bank has sued Rich for the $30,000 loan and to foreclose its mortgage for the $500,000 loan.

4. ABC has sued Rich for the payment of the purchase price of the stock.

5. Rich has sued the Purchaser for the return of the stocks and the promissory notes.

   Will Rich be successful in his claims and defenses with respect to each of the lawsuits? Explain your answers fully.

Question Number 5

Drew and Carmen married in 1960. They had one child, Alex, who was born in 1965. Drew and Carmen lived happily together as husband and wife in Franklin, Ohio until 1995, when Drew passed away. Drew's entire estate passed to Carmen by virtue of Drew's Will.

In 1998, Carmen executed a valid Will in Ohio ("1998 Will"), which included the following dispositive provisions:

1. I give the antique clock, which I received from my late husband Drew, to Drew's brother, Bill.

2. As a result of the love and affection provided to me subsequent to Drew's death, I give my Cadillac automobile to my sister, Pam.

3. I give all of the rest and residue of my estate to my child, Alex.

Drew's brother, Bill, died in 2000, survived by a son, Eric.

In 2008, a new neighbor, Felix, moved in next door to Carmen. Felix had been married and divorced on three prior occasions, was unemployed, and appeared to be living off the funds that he had received from his previous divorce settlements. Felix was persistent and eventually convinced Carmen to begin dating.

After a brief period, Felix proposed to Carmen. They married shortly thereafter over Alex's objection. Alex confronted Felix about his underlying motives in marrying Carmen, and Felix admitted that, by marrying Carmen, he would be able to further enhance his lifestyle. Felix also told Alex that both he and Carmen were going to Felix's attorney the following week to prepare new estate planning documents.

Felix's typical Monday pattern was to borrow Carmen's Cadillac to go to a local tanning facility. Concerned that Felix was coercing Carmen to disinherit him, Alex decided to eliminate Felix by placing an explosive device in the Cadillac on a Monday morning when he expected Felix to use the car. The device was designed to explode when the ignition was started up. Unbeknownst to Alex, Carmen was the first to use the Cadillac on that particular Monday morning and, when she started the ignition, the device detonated causing Carmen's death. Alex confessed to the crime and pled guilty to murder.

Carmen never changed her 1998 Will. Carmen is survived by Alex, Alex's adult daughter Melanie, Pam, Felix, and Eric, each of whom claims the right to share in Carmen's estate. Felix, as Carmen's surviving spouse, has timely and properly signed and filed an election to take his statutory share of the estate under Ohio law.

Carmen's estate consists of the following:

1. The antique clock, which she had inherited from her late husband, Drew, which has a value of $20,000.

2. A property damage insurance check for $10,000 payable to the estate to cover the loss of the Cadillac, which had been destroyed as a result of the explosive device.

3. $240,000 in cash.

To whom and in what amounts should Carmen's estate be distributed? Explain your answers fully.

Question Number 6

PaperCorp, an Ohio paper company, entered into separate contracts with GenCon, a construction company, for the construction of a new paper plant, and with EquipCo for the paper-making machinery which the plant would house. The paper-making process required the construction to be completed and the equipment fabricated in conformity with detailed and highly technical specifications. Both the construction and fabrication process were plagued with difficulties. After PaperCorp took possession of the plant, it sued GenCon and EquipCo for breach of their respective contracts in multiple respects.

At the jury trial, PaperCorp offered a photocopy of its construction contract with GenCon into evidence. The copy was identified as a true copy of the original by PaperCorp's President, who signed it originally. He testified that the original was destroyed in a fire at the plant. On cross-examination, however, he conceded that several pages of the copy were unreadable and that 2 of the 20 incorporated attachments were not attached. He could not remember the subject of the unreadable pages or the content of the missing attachments. During the testimony of GenCon's Construction Manager, she disclosed that GenCon had not been able to find a signed or complete original either. She did, however, remember the content of the missing and unreadable portions of the contract. She conceded on cross-examination that the unreadable pages and missing attachments did not relate to issues in dispute between the parties in the lawsuit. GenCon objected to the admission of the construction contract offered by PaperCorp on the ground that it was not the original, but the Court admitted it into evidence.

At the jury trial, EquipCo sought to introduce evidence of three changes to the contract ("change orders") that EquipCo claimed had been submitted in writing to and approved by PaperCorp respecting the fabrication of the equipment. EquipCo's Vice President testified as to their content and stated that he and PaperCorp's President specifically discussed and agreed to the three change orders, but he neither produced written copies nor offered any explanation why written copies were unavailable. To the contrary, PaperCorp's President testified that he could not find any record of the three supposed change orders and did not remember ever having discussed or approved them. PaperCorp objected to all testimony regarding the three disputed change orders as not being the best evidence of them, and the Court excluded all of the testimony relating to them and instructed the jury to disregard it.

To prove damages, PaperCorp's accountant identified and offered into evidence a summary in place of the voluminous invoices and work orders from other companies it had hired to fix the building and the equipment. PaperCorp's accountant testified that he prepared the summary himself from original records, that the original records had previously been made available for inspection by EquipCo and GenCon, and that the summary was accurate. PaperCorp did not offer the original invoices, work orders, or payment records into evidence. The accountant also offered into evidence a computer printout from PaperCorp's accounts payable database purporting to show that those invoices and work orders had been paid. He testified that he had personally printed it out. EquipCo and GenCon objected to the both the summary and the computer printout based on the best evidence rule. The Court admitted the summary but excluded the printout.

1. Did the Court properly admit the duplicate contract between GenCon and PaperCorp?

2. Did the Court properly exclude the conflicting testimony regarding EquipCo's three change orders?

3. Did the Court properly admit PaperCorp's summary of invoices and work orders?

4. Did the Court properly exclude PaperCorp's computer print out showing payments?

Explain your answers fully.

Question Number 7

Husband and Wife, residents of Anytown, Ohio, married in 1960 and had one child, Cynthia, who is now an adult. In 1980, Husband and Wife purchased a house (Residence) and took title by a valid deed that conveyed title to them as follows: "To Husband and Wife as tenants by the entireties with survivorship rights."

In 1981, Husband and Wife purchased an office building (Building), and title was conveyed to them as follows: "To Husband and Wife, as joint tenants, with a right of survivorship." Both deeds were duly recorded in the local county recorder's office.

During 2007 and 2008, Wife incurred a debt on a credit card issued to her in her own name by Creditor. It was Wife's separate debt. In 2009, when the debt became delinquent, Creditor, after suing Wife, obtained a default judgment against Wife in the amount of $15,000. Creditor recorded the judgment as a lien on Residence and Building. When Wife failed to pay the judgment, Creditor filed a complaint in foreclosure against Residence and Building naming Husband and Wife as defendants, although only Wife was legally responsible for the judgment.

Husband and Wife answered the complaint and filed a motion for summary judgment asserting that they were entitled to judgment against Creditor as a matter of law because Husband's interest in Residence and House cannot be foreclosed upon. Creditor opposed the motion.

Husband and Wife also owned a single-family rental property on Whip Street (the Whip Street property) in a nearby town where Cynthia lived and worked. In 2006, to assist Cynthia in meeting expenses, Husband and Wife had created a trust, the corpus of which was the Whip Street property, and they appointed an independent Trustee. The trust instrument stated that, "Cynthia shall have the sole life rights to live in the Whip Street property for the joint lives of Husband and Wife. For the duration of her tenancy, Cynthia shall be responsible for paying all real estate taxes and sewer charges. Upon the death of the survivor of Husband and Wife, the Trustee shall sell the Whip Street property."

In 2009, Cynthia lost her job and was unable to pay the real estate taxes. To help defray expenses, she rented a room in the Whip Street Property to Bill, a male boarder. Husband and Wife did not approve of Cynthia's "living with a man," and insisted that Cynthia evict Bill. When Cynthia refused, Husband and Wife directed the Trustee to terminate Cynthia's tenancy.

Trustee commenced an action to evict Cynthia. The suit alleged that Cynthia had failed to pay the real estate taxes she was obligated to pay and that, without specific authority granted by the trust instrument, she had unlawfully rented a part of the property to another.

1. How should the Court rule on Husband and Wife's motion for summary judgment in Creditor's foreclosure action?

2. What is the nature of Cynthia's interest, if any, in the Whip Street property? What defense, if any, might she assert in Trustee's eviction action, and what is the likely outcome?

Explain your answers fully.

Question Number 8

Sally is a singer and a businesswoman who owns her own studio and has a website, "sallysongs.com." In the last year, the following events have taken place:

Promoter left Sally a voicemail saying that an opportunity had come up for her to perform at a show in Las Vegas, but the scheduling was tight as the show started in two weeks. Sally did not check her voicemail for a week but, when she did, she immediately called Promoter back and left a voicemail accepting the engagement. In the meantime, Promoter had booked another singer for the show.

Following that, Promoter sent Sally a letter that said, "I am organizing a Benefit Concert with several acts and would like to hire you. The job pays $5,000. I need to know within one week." Sally wrote back stating, "I would love to do it, but I really think $7,000 would be fair." Promoter replied in writing, "Sorry, $5,000 is the most I can do." Sally wrote back in a second letter stating, "All right, I'll do it for $5,000." Promoter received Sally's second letter within a week of his first communication, but he had already hired an alternate act after receiving Sally's first letter.

Sally had solicited bids for the remodeling of her studio. She sent an email to Contractor saying, "I have selected your bid and you can begin immediately." Contractor did not reply, but did purchase materials that day and began to build in his shop the custom cabinets called for in the specifications. Three days later, because she had not heard back from Contractor, Sally emailed a different contractor, Builder, and said, "I need the work done on my studio. Please start as soon as you can."

Sally owned an empty lot next to the studio and offered in writing to sell it to Speculator under the following terms: "I will sell you the lot for $75,000. This offer is available for one week from the date of this letter." Three days later, Sally accepted an offer of $80,000 for the lot from another buyer. Speculator learned of this deal through his real estate contacts and quickly sent Sally a letter accepting her offer in the letter. Sally had received Speculator's acceptance within one week of the date of her letter.

Finally, Sally purchased advertising on cable television offering to sell five of her CDs for $15. The ads said that CD purchases could be made over the Internet on Sally's website, or by calling a toll-free number. Sally quickly realized that music distributors were purchasing the CDs in large quantities because it was cheaper than their wholesale cost. She cancelled the television ads and posted a notice prominently on her website that the sale of five CDs for $15 was no longer available. Three days later, Customer called the toll-free number to purchase five CDs, but was informed that he could no longer do that.

1. With respect to the Las Vegas show, did Sally have an enforceable contract with Promoter?

2. With respect to the Benefit Concert, did Sally have an enforceable contract with Promoter?

3. Did Contractor have an enforceable contract with Sally?

4. Did Speculator have an enforceable contract with Sally?

5. Did Customer have an enforceable contract with Sally?

Explain your answers fully. Do not discuss damages or any other contracts that may or may not have been formed.

Question Number 9

Officer and Rookie, two police officers in Anytown, Ohio, were on routine patrol on Main Street when they observed a vehicle driven by Driver traveling directly ahead of them swerve over the center double yellow lines, violating an Ohio traffic law. Officer put on the cruiser's lights and siren and stopped the vehicle.

Officer walked up to the driver's side of the vehicle and Rookie, who was a recent graduate of the police academy, went to talk to the passenger ("Passenger"). As they approached the vehicle, they both noticed Passenger bend down and appear to reach under his seat, apparently stashing something there. Rookie approached Passenger and ordered him out of the vehicle. After conducting a quick pat-down search of Passenger, he found no weapons or contraband. Rookie put Passenger in the back seat of the cruiser for Rookie's convenience.

Rookie returned to the vehicle, reached under the passenger seat, and pulled out a small plastic bag containing a small amount of green vegetable matter and three hand-rolled cigarettes. He returned to the cruiser and, when he questioned Passenger about the bag he found, Passenger claimed to know nothing about it. Rookie arrested Passenger and charged him with possession of marijuana.

While Rookie was busy on the passenger side of the vehicle, Officer approached Driver and asked him for his license and registration. When Driver opened the glove box to retrieve his vehicle registration, Officer observed a plastic bag containing green vegetable matter, which Driver insisted was a bag of spices for his cooking class. Based on his twenty years of police experience, Officer believed that the bag contained marijuana and he removed it from the glove box. Officer arrested Driver and charged him with possession of marijuana. Tests later confirmed that the substance in this bag, as well as the bag Rookie had found under the passenger seat, was marijuana.

During criminal pre-trial proceedings, Driver and Passenger filed motions to suppress the marijuana evidence found during the traffic stop of Driver's vehicle, maintaining that the actions of Officer and Rookie violated their Fourth Amendment rights.

Passenger challenged the constitutionality of:

(1) the traffic stop of Driver's vehicle,

(2) Rookie ordering him out of the vehicle, searching him, placing him in the cruiser, and

(3) the search and seizure of the drugs under the passenger seat.

Driver challenged the constitutionality of:

(1) the traffic stop, and

(2) the seizure of the marijuana from the glove box.

How should the court rule on each ground of challenge? Explain your answers fully.

Question Number 10

Adam rented a truck from Haulit, Inc. ("Haulit") to move his personal belongings from his home in Hamilton County, Ohio, near the Kentucky border to his new home in Medina County, Ohio, so he could be closer to his new job in Cuyahoga County, Ohio.

Haulit is a New York corporation and has offices in New York and Kentucky. Haulit is not duly registered to do business in Ohio, but it derives significant revenue from truck rentals to Ohio residents who travel to Haulit's Kentucky rental yard. The sole shareholder of Haulit is Barb, who resides in New York and is not an employee of Haulit.

Adam arranged for the rental by placing a telephone call to Linda, a Haulit office employee, who resides in Kentucky and has never set foot in Ohio. Another Haulit employee, Chuck, who works at the Haulit rental yard in Kentucky, serviced the truck to prepare it for rental to Adam. In the course of preparing the truck, Chuck damaged the brakes. Chuck lives in Butler County, Ohio.

Adam picked up the truck at Haulit's Kentucky rental yard. In Hamilton County, Ohio, he loaded the truck with his belongings and, as he was driving north in Franklin County toward his home, the brakes failed, and he collided with a car driven by Jim. Jim and his passenger, Mary, were badly injured in the accident. Jim is a resident of Wood County, Ohio, and Mary is a resident of Lucas County, Ohio.

On January 9, 2010, Adam settled into his new home in Medina County and, on January 11, 2010, he went to work at his new office in Cuyahoga County.

On February 1, 2010, Jim filed a personal injury suit in the Wood County Common Pleas Court naming Adam, Haulit, Barb, Linda, and Chuck as defendants and demanding $500,000 in damages.

Also on February 1, 2010, Mary filed a similar suit in the Toledo Municipal Court in Lucas County naming Adam, Haulit, Barb, Linda, and Chuck as defendants and demanding $500,000 in damages. The complaints in each case were served on the named defendants by certified mail at their places of business. No defendant is challenging the propriety of service.

Barb's New York attorney immediately filed an answer denying liability and asserting as an affirmative defense that as a mere shareholder of Haulit she could not be held liable. Her answer raised no other affirmative defenses.

All defendants in each of the two cases, including Barb, filed motions in the respective courts to dismiss the case against them on the following grounds: the court lacks subject matter jurisdiction; the court lacks personal jurisdiction; and venue is improper. Except as to Barb, these motions to dismiss are the first appearances of the defendants.

How should the courts rule as to each defendant on each ground? Explain your answers fully.

Question Number 11

Bank, a financial institution in Anytown, Ohio, entered into the following transactions in 2009 with several of its customers, also in Anytown, Ohio.

1. On January 2, Acme, a seller of commercial pumps, borrowed money from Bank to operate its business. On January 3, Bank properly filed a financing statement perfecting its security interest in "all of Acme's current and after-acquired inventory and proceeds of inventory" as collateral for the loan.

On April 1, PumpCo, a pump manufacturer, agreed to place several pumps into Acme's inventory on consignment. Acme and PumpCo signed a valid consignment agreement, which provided as follows: "PumpCo has a security interest in the following pumps (individually described by serial number); PumpCo retains title to the pumps bearing those serial numbers until sold by Acme; and Acme shall pay PumpCo for those pumps within 30 days after they are sold."

On April 2, PumpCo delivered the pumps to Acme, and on April 3, PumpCo properly filed a financing statement evidencing its security interest in the pumps. PumpCo did nothing further with respect to its security interest. On May 10, Acme sold all of the consigned pumps and placed the proceeds in a special "pump account" at Bank, which Acme had opened for this purpose.

On May 30, Acme defaulted on all of its obligations. PumpCo and Bank both claim a right to the money in the "pump account."

2. On January 2, Sue borrowed $200,000 from Bank to purchase a commercial hardware store that had earlier been built on land she owned in Anytown, Ohio. Sue signed a note and mortgage agreement granting Bank a security interest in all real estate, buildings, and fixtures, and the mortgage lien was properly recorded by Bank on January 30.

A month after Sue opened the store, she contracted with SafeCo for the purchase and installation of a floor safe to be set in concrete inside the store. She signed a $5,000 note and security agreement giving SafeCo a security interest in the safe. Five days later, SafeCo delivered the safe and installed it, pouring the concrete to secure it in the floor. Six weeks after installation of the safe, SafeCo filed a fixture financing statement (reflecting its purchase money security interest in the safe) describing the safe and real property in the same office where Bank's mortgage lien was recorded.

Subsequently, Sue defaulted on the loan from Bank and the note to SafeCo. Bank has foreclosed on all of the real estate and the entire store. SafeCo wants to retrieve its safe, but Bank has refused to allow it to do so.

3. Wally, a commercial gardener, needed a lawnmower for his business. Not wanting to have to owe money to an implements dealer, Wally borrowed money from Bank to buy a used lawnmower from MowCo (a company that sells, services, and repairs lawn equipment). Bank took a security interest in the lawnmower and perfected its security interest by properly filing a financing statement the day after the lawnmower was purchased. Wally experienced problems with the lawnmower and, after repeated attempts to have it repaired by MowCo, he gave the lawnmower back to MowCo in exchange for the forgiveness of his repair bills. Subsequently, MowCo sold the lawnmower to Ned for cash. Neither Ned nor MowCo knew anything about Bank's security interest in the lawnmower. Wally has defaulted on his loan repayment to Bank, and Bank, citing its perfected security interest, wants to take the lawnmower from Ned.

4. On January 2, Ken borrowed $5,000 from Bank to purchase a diamond ring from a local jeweler. Ken signed a security agreement giving Bank a security interest in the ring, and Bank properly filed a financing statement.

On February 1, Ken borrowed money from Friend and delivered the diamond ring to Friend to keep "until I pay you back." Ken has defaulted on his loans from both Bank and Friend. Bank, citing its perfected security interest, demands that Friend turn the ring over to it.

As between the following claimants, who should prevail and why?

1. PumpCo versus Bank.
2. Bank versus SafeCo.
3. Bank versus Ned.
4. Bank versus Friend.

Explain your answers fully.

Question Number 12

Andy was an up and coming associate lawyer with the law firm of Jones & Associates, an Ohio firm owned and operated by Jones. Jones, a practicing attorney for 35 years, decided to sell the practice and teach law at the local law school. Andy expressed an interest in purchasing the practice. Andy and Jones reached an agreement for the sale of the practice from Jones to Andy. A few of the terms and conditions of the sale include the following:

a. Andy will pay Jones 10% of current clients' billings over the next ten years. Andy will raise the fee level of the current clients by 10% to cover the purchase.

b. Jones must sign a 3-year non-compete agreement.

c. Andy will not continue the representation of Clients A and B, as those clients are small, less lucrative clients.

d. Andy must provide notice of the sale, by any reasonable means, to all of the clients.

Six months after taking over the practice, Andy sold it to another firm. He confided to a friend that it was always his original plan to sell the firm; it just took longer than Andy anticipated.

What violations, if any, of the Ohio Rules of Professional Conduct has Andy committed? Explain your answers fully.